

SENATE JUDICIARY & RULES COMMITTEE

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IDAPA 05 - DEPARTMENT OF JUVENILE CORRECTIONS

05.01.02 - RULES OF THE DEPARTMENT OF JUVENILE CORRECTIONS, SECURE JUVENILE DETENTION FACILITIES

DOCKET NO. 05-0102-0601

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2007 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 20-504(2), 20-504(11), 20-504(12), and 20-504(13), Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the August 2, 2006, Idaho Administrative Bulletin, Vol. 06-8, pages 52 through 84.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:
N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Nancy Bishop, Idaho Department of Juvenile Corrections, 334-5100, extension 384.

DATED this 4th of October, 2006.

THIS NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section(s) 20-504(2), 20-504(11), 20-504(12), and 20-504(13), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than August 16, 2006.

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The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The proposed rule changes are needed to clarify current practices, update with current practices, update definitions and use accordingly throughout the chapter, and remove redundancies.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because as according to IDAPA 05.01.02.205, the Standards Committee has been meeting to propose changes to these rules and, further, the committee has been and will be sharing the proposed changes with other detention center administrators and county commissioners.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Nancy Bishop, Idaho Department of Juvenile Corrections, 334-5100, extension 384.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 23, 2006.

DATED this 29th of June, 2006.

Nancy Bishop
Deputy Attorney General
Idaho Department of Juvenile Corrections
400 N. 10th St., 2nd Fl.
P.O. Box 83720
Boise, ID 83720-0285
Phone: (208) 334-5100, ext. 384/Fax: (208) 334-5120

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

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05.01.02 - RULES ~~OF THE DEPARTMENT OF JUVENILE CORRECTIONS, AND STANDARDS~~ FOR SECURE JUVENILE DETENTION ~~FACILITIES~~ CENTERS

000. LEGAL AUTHORITY.

01. Section 20-504(2), Idaho Code. Pursuant to Section 20-504(2), Idaho Code, the Idaho Department of Juvenile Corrections shall establish minimum standards for detention, care and certification of approved detention ~~facilities~~ centers based upon such standards.

(4-5-00)()

~~**02. Section 20-504(9), Idaho Code.** Pursuant to Section 20-504(9), Idaho Code, the department shall establish minimum standards for the operations of all private residential and nonresidential facilities and programs which provide services to juvenile offenders.~~ (4-5-00)

032. Section 20-504(11), Idaho Code. Pursuant to Section 20-504(11), Idaho Code, the department shall have authority to adopt such administrative rules pursuant to the procedures provided in Chapter 52, Title 67, Idaho Code, as are deemed necessary or appropriate for the functioning of the department and the implementation and administration of the Juvenile Corrections Act. (4-5-00)

03. Section 20-504(12), Idaho Code. Pursuant to Section 20-504(12), Idaho Code, the department shall have authority to enter into contracts with a private association or organization or other public agency or organization for the inspection and licensure of detention facilities.

()

~~**04. Section 20-504(14), Idaho Code.** Pursuant to Section 20-504(14), Idaho Code, the department, in cooperation with the courts and the counties, shall establish uniform standards, criteria and operating procedures for county juvenile probation services, as well as qualifications and standards for the training of juvenile probation officers.~~ **Section 20-504(13), Idaho Code.** Pursuant to Section 20-504(13), Idaho Code, the department shall have authority to enter into contracts with private providers or local governmental agencies for the confinement or other permanent or temporary placement of juvenile offenders committed to its custody. ()

~~**05. Section 20-531(4), Idaho Code.** Pursuant to Section 20-531(4), Idaho Code, the department shall adopt standards, policies and procedures for the regulation and operation of secure facilities.~~ (4-5-00)

~~**06. Section 20-545(1), Idaho Code.** Pursuant to Section 20-545(1), Idaho Code, the department shall have the power to adopt rules for the state juvenile corrections center as may be required by the Juvenile Corrections Act.~~ (4-5-00)

~~**07. Interstate Compact on Juveniles.** By the provisions of Sections 16-1901, et seq., Idaho Code, the "Interstate Compact on Juveniles," the department is authorized to promulgate rules and regulations to carry out more effectively the terms of the compact.~~ (4-5-00)

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001. TITLE AND SCOPE.

01. Title. These rules shall be cited as IDAPA 05.01.02, “Rules ~~of the Idaho Department of Juvenile Corrections, and Standards for~~ Secure Juvenile Detention ~~Facilities Centers,”~~ IDAPA 05, Title 01, Chapter 02. (4-5-00)()

02. Scope. These rules are established to ensure that the juvenile corrections system in Idaho will be consistently based on the following principles: accountability; community protection; and competency development. (4-5-00)

(BREAK IN CONTINUITY OF SECTIONS)

004. INCORPORATION BY REFERENCE.

There are no documents incorporated by reference into these rules. ()

005. OFFICE - OFFICE HOURS - MAILING ADDRESS AND STREET ADDRESS.

01. Street Address. The Idaho Department of Juvenile Corrections is located at 400 N. 10th St., 2nd Floor, Boise, Idaho 83720. Business hours are typically 8 a.m. to 5 p.m., Monday through Friday, excluding holidays. ()

02. Mail Address. Mail regarding the Idaho Department of Juvenile Corrections’ rules should be directed to P.O. Box 83720, Boise, Idaho 83720-0285. ()

03. Telephone Number. The telephone of the office is (208) 334-5100 and the telecommunications relay service of the office is 1 800 377-1363 or 711. ()

04. Facsimile. The facsimile number of the office is (208) 334-5120. ()

006. PUBLIC RECORDS ACT COMPLIANCE.

The records associated with the compliance monitoring and certification process of detention centers are subject to the Idaho Public Records Act, Title 9, Chapter 3, Idaho Code. ()

0047. -- 009. (RESERVED).

010. DEFINITIONS.

As used in this chapter: (4-5-00)

01. Adult. A person eighteen (18) years of age or older. (4-5-00)

02. Body Cavity Search. The examination and possible intrusion into the rectal or vaginal cavities to detect contraband. It is performed only by the medical authority. (4-5-00)

03. Chemical Agent. An active substance, such as oleoresin capsicum, used to deter disturbances that might cause personal injury or property damage. (4-5-00)

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04. Classification. A process for determining the needs and requirements of those for whom confinement has been ordered and for assigning them to housing units and/or programs according to their needs and existing resources. (4-5-00)

05. Commit. Commit means to transfer legal custody to the Idaho Department of Juvenile Corrections. ()

06. Community-Based Program. An in-home detention program or a nonsecure or staff secure residential or nonresidential program operated to supervise and provide competency development to juvenile offenders in the least restrictive setting, consistent with public safety, operated by the state or under contract with the state or by the county. ()

057. Contact Visiting. A program that permits juveniles offenders to visit with designated person(s). The area is free of obstacles or barriers that prohibit physical contact. (4-5-00)()

068. Contraband. Any item not issued or authorized by the facility detention center. (4-5-00)()

07. Control Center. ~~The central point within a facility or institution where activities are monitored and controlled.~~ (4-5-00)

08. Commit. ~~Commit means to transfer legal custody.~~ (4-5-00)

09. Community-Based Program. ~~An in-home detention program or a non-secure or staff secure residential or nonresidential program operated to supervise and provide competency development to juvenile offenders in the least restrictive setting, consistent with public safety, operated by the state or under contract with the state or by the county.~~ (4-5-00)

402. Corporal Punishment. Any act of inflicting punishment directly on the body, causing pain or injury. (4-5-00)

140. Court. ~~Means~~ Idaho district court or magistrate's division thereof. (4-5-00)()

121. Day Room/Multi-Purpose Room. That portion of the housing unit used for varied juvenile offender activities which is separate and distinct from the sleeping rooms. (4-5-00)()

12. Department. The Idaho Department of Juvenile Corrections. ()

13. Detention. Detention means the temporary placement of juveniles offenders who require secure custody for their own or the community's protection in physically restricting facilities. (4-5-00)()

14. Detention Center. A facility established pursuant to Title 20, Chapter 5, Sections 20-517 and 20-518, Idaho Code, for the temporary placement of juvenile offenders who require secure confinement.

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(4-5-00)()

15. ~~**Detention Facility.** Accommodations for detaining a juvenile for the temporary placement of juveniles who require secure custody for their own or the community's protection in physical restricting facilities.~~ **Detention Records.** Information regarding the maintenance and operation of the detention center including but not limited to correspondence, memorandums, complaints regarding the detention center, daily activity logs, security and fire safety checks, head counts, health inspection records, and safety inspection records, use of physical force records and use of restraints records, incident reports, employee training and certification for use of security equipment. (4-5-00)()

16. **Direct Care Personnel Staff.** Any care staff member charged with day-to-day supervision of juveniles offenders housed in a juvenile detention facility center. (4-5-00)()

17. **Director.** The director of the Idaho Department of Juvenile Corrections. (4-5-00)()

~~18. **Diversion.** The utilization of local community resources, churches, counseling for the juvenile and/ or family, substance abuse counseling, informal probation, community service work, voluntary restitution, or any other available service or program as an alternative to the filing of a petition with the juvenile court.~~ (4-5-00)

~~19. **Department.** The Idaho Department of Juvenile Corrections.~~ (4-5-00)

~~20~~18. **Emergency Care.** Care for an acute illness or unexpected health care need that cannot be deferred until the next scheduled sick call. Emergency care shall be provided to the juvenile offender population by the medical staff, physician, other appropriately trained staff, local ambulance services ~~and~~ or outside hospital emergency rooms. (4-5-00)()

~~21~~2. **Emergency Plans.** Written documents that address specific actions to be taken in an institutional emergency or catastrophe such as a medical emergency, fire, flood, riot or other major disruption. (4-5-00)

~~22. **Existing Facility.** Any juvenile detention facility in use, or for which bids have been let, prior to the effective date of these Rules.~~ (4-5-00)

~~23. **Facility Records.** Information regarding the maintenance and operation of the facility including but not limited to correspondence, memorandums, complaints regarding the facility, daily activity logs, security and fire safety checks, head counts, medical records, health inspection records, and safety inspection records, use of physical force records and use of restraints records, employee training and certification for use of security equipment.~~ (4-5-00)

20. **Health Appraisal.** An evaluation of a patient's current physical and mental condition and medical histories conducted by the health authority or medical employee. ()

~~24~~1. **Health Authority.** The physician, health administrator, or agency responsible for the provision of health care services at ~~an institution or system of institutions; the responsible physician may be the health authority~~ the detention center. (4-5-00)()

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252. Health-Trained Employee. A person who provides assistance to a physician, nurse, physician's assistant, or other professional medical staff. Duties may include preparing and/or reviewing screening forms for needed follow-up; preparing juveniles offenders and their records for sick call; and assisting in the implementation of medical orders regarding diets, housing, and work assignments. (4-5-00)()

263. Housing Unit. The total living area available to a group or classification of juveniles offenders in a detention facility center. This area may consist of a dormitory or a combination of the space in each sleeping room and day room/ multi-purpose room. (4-5-00)()

274. Incident Report. A written document reporting any unusual occurrence or special event, ~~such as the discovery of contraband, use of physical force, use of chemical agents, discharge of firearms, etc., and action taken including notation of strip and cavity searches~~ or any other incident which threatens the safety and security of direct care staff, juvenile offenders or others, or which threatens the security of the program and which requires a staff response. (4-5-00)()

285. Judge. A district judge or a magistrate. (4-5-00)

296. Juvenile. A person less than eighteen (18) years of age ~~or who was less than eighteen (18) years of age at the time of any act, omission or status bringing the person within the purview of the Juvenile Corrections Act.~~ (4-5-00)()

27. Juvenile Detention Records. Information maintained in hard copy or electronic format concerning the individual's delinquent or criminal, personal, and medical history and behavior and activities while in detention. ()

~~**3028. Juvenile Offender.** A person under the age of eighteen (18), committed by the court to the custody, care and jurisdiction of the department for confinement in a secure facility following adjudication for a delinquent act which would constitute a felony or misdemeanor if committed by an adult~~ who was under the age of eighteen (18) at the time of any act, omission or status bringing the person within the purview of the Juvenile Corrections Act. (4-5-00)()

~~**31. Juvenile Records.** Information concerning the individual's delinquent or criminal, personal, and medical history and behavior and activities while in custody, including but not limited to commitment papers, court orders, detainer, personal property receipts, visitors' lists, type of custody, disciplinary infractions and actions taken, grievance reports, work assignments, program participation, and miscellaneous correspondence.~~ (4-5-00)

329. Legal Custody. The relationship created by the court's decree which imposes upon the custodian responsibilities of physical possession of the juvenile offender, the duty to protect, train and discipline him and to provide him with food, shelter, education and ordinary medical care. (4-5-00)()

330. Legal Guardian. A person appointed as guardian of a minor under the laws of Idaho. For the purposes of this chapter, legal guardian does not include and shall not be construed

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to include the owner, operator or the agent of an owner or operator of a detention center, observation and assessment center, secure facility, residential facility or other facility having temporary or long-term physical custody of the juvenile offender. (4-5-00)

31. Mechanical Restraints. Devices used to restrict physical activity. ()

342. Medical Employee. A certified person such as a physician, nurse, physician's assistant, or emergency medical technician who works under the supervision and authority of the health authority consistent with their respective levels of training, education and experience. (4-5-00)()

353. Medical Records. Separate records of medical examinations and diagnoses maintained by the health authority. (4-5-00)

364. Medical Screening. A system of structured observation/initial health assessment of newly arrived juveniles offenders. Medical screenings may be performed by a medical employee or by a health-trained employee. (4-5-00)()

37. New Facility. ~~Any facility for which bids are let for construction after the effective date of these Rules.~~ (4-5-00)

38. Non-Contact Visiting. ~~A program that restricts juveniles from having physical contact with visitors. Physical barriers usually separate the juvenile from the visitors with screens and/or glass. Voice communications between the parties are typically accomplished with phones or speakers.~~ (4-5-00)

395. Observation and Assessment Program. ~~Any state-operated or purchased service program responsible for temporary custody of juvenile offenders for observation and assessment~~
A residential or nonresidential program designed to complete assessments of juvenile offenders. (4-5-00)()

4036. Pat Search. The touching or feeling of a subject's clothed body to detect contraband. (4-5-00)

4137. Perimeter Security. A system that controls ingress and egress to the interior of a facility detention center or institution. The system may include electronic devices, walls, fence, patrols ~~and/or~~ towers. (4-5-00)()

4238. Perimeter Security Check. Physical inspection of the perimeter of the facility detention center performed for the purpose of discovering or preventing security breach. May include the inspection of the perimeter of the facility detention center and adjacent containment fence or areas as designated by facility detention center policy and procedures. (4-5-00)()

439. Petition for Exemption. A formal written document addressed to the director of the Idaho Department of Juvenile Corrections requesting exception from a detention facility center standard. The petition for exemption must contain written justification why the petitioner should be relieved from enforcement of specific detention standard(s). (4-5-00)()

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40. Physical Intervention. Appropriate physical control used in instances of justifiable self-defense, protection of others, protection of property, or prevention of escapes. ()

~~**44. Physical Assessment.** An evaluation of a patient's current physical condition and medical histories conducted by, or under the supervision of, the Health Authority. (4-5-00)~~

451. Policy and Procedures. Standard operating strategies and processes developed by the administrative authority governing detention facility center operations. (4-5-00)()

a. Policy is a course of action that guides and determines present and future decisions and actions. Policies indicate the general course or direction of an organization within which the activities of the ~~personnel~~ direct care staff must operate. (4-5-00)()

b. Procedure is the detailed and sequential action which must be executed to ensure that policy is implemented. It is the method of performing an operation or a manner of proceeding on a course of action. It differs from a policy in that it directs actions required to perform a specific task within the guidelines of the policy. (4-5-00)

462. Rated Capacity. The ~~actual~~ maximum number of juveniles offenders which may be housed in a particular room, housing unit, or ~~facility~~ detention center based upon available square footage, sanitation fixtures, and other physical plant features specified in these rules. (4-5-00)()

~~**473. Renovation.** The alteration of the structure of any existing juvenile detention facility center, or portion thereof, for the purposes of changing or improving its function. This may include, but not be limited to, altering the physical layout of essential areas within the facility detention center or reconstruction of the existing structure, areas, or interior features. (4-5-00)()~~

~~**48. Restraints.** Devices used to restrict physical activity. (4-5-00)~~

494. Rule Infraction. A violation of detention center rules of conduct ~~and/or policies~~ and procedures as governed by facility detention center policy and procedures. (4-5-00)()

~~**5045. Safety Equipment.** Devices primarily used for safety purposes such as but not limited to firefighting equipment, for example, chemical extinguishers, hoses, nozzles, water supplies, alarm systems, sprinkler systems, portable breathing devices, gas masks, fans, first aid kits, stretchers, and emergency alarms. (4-5-00)~~

46. Secure Perimeter. The outer portions of a detention center that provide for secure confinement of juvenile offenders. ()

~~**5147. Security Devices.** Equipment used primarily to confine and control detained persons and may include but is not limited to locks, gates, doors, bars, fences, screens, ceilings, floors, walls, and barriers, electronic monitoring equipment, security alarm systems, security light units, auxiliary power supplies, and other equipment used to maintain facility detention center~~

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security. (4-5-00)()

~~52. **Secure Facility.** Any state-operated facility or facility operated under contract with the state which provides twenty-four (24) hour supervision and confinement for juvenile offenders committed to the custody of the department.~~ (4-5-00)

~~53. **Secure Perimeter.** The outer portions of a facility that provide for secure confinement of facility residents.~~ (4-5-00)

~~548. **Staffing Plan.** A documented schedule which includes staffing of direct care personnel staff, staffing ratios, resident activities, and the certification level of staff.~~ (4-5-00)()

~~49. **Standards.** Rules for Secure Juvenile Detention Centers, IDAPA 05, Title 01, Chapter 02.~~ ()

~~550. **Strip Search.** An A visual examination of a resident's a juvenile's naked body for weapons, contraband, injuries, or vermin infestations. This also includes a thorough search of all the individual's juvenile's clothing while such is not being worn.~~ (4-5-00)()

~~56. **Use of Physical Force.** Physical force used in instances of justifiable self-defense, protection of others, protection of property, or prevention of escapes.~~ (4-5-00)

~~571. **Volunteer.** A person who donates his time and effort to enhance the activities of the program freely chooses to provide services to juvenile offenders or staff at a juvenile detention center, and is not compensated for the services or time. Volunteers may be classified into two categories: Volunteers are supervised by direct care staff. Volunteers shall not be unsupervised with juveniles and will be supervised by direct care staff at the detention center.~~ (4-5-00)()

~~a. **Direct care volunteer.** A person serving as unpaid direct care personnel, serving in the same capacity as an employee of the juvenile detention center, having direct and unsupervised contact with juveniles.~~ (4-5-00)

~~b. **Program Volunteer.** An unpaid volunteer, program or organization serving in, or as a program of the juvenile detention center, such as Alcoholics Anonymous, etc., which is constantly supervised by Direct Care Personnel of the juvenile detention center.~~ (4-5-00)

~~58. **Work Program.** A public service work project which employs juvenile offenders at a reasonable wage for the purpose of reimbursing victims of the juvenile offender's delinquent behavior.~~ (4-5-00)

011. -- 199. (RESERVED).

200. STANDARDS FOR JUVENILE DETENTION FACILITIES.

~~The Idaho Department of Juvenile Corrections or its designee shall have the authority to visit and inspect all juvenile detention facilities to assess such facilities' compliance with these rules.~~ (4-5-00)

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2040. INSPECTION PROVISIONS.

The Idaho Department of Juvenile Corrections or its designee shall have the authority to visit and inspect all juvenile detention facilities to assess such facilities' compliance with these rules.

()

01. Annual Visits. Each juvenile detention ~~facility~~ center shall be subject to announced or unannounced visits by ~~Idaho Department of Juvenile Corrections personnel~~ department representatives on at least an annual basis.

(4-5-00)()

02. Review of Logs, Records, Policy and Procedure Manuals, Memorandums and Reports.

All logs, records, policy and procedures manuals, memorandums, and incident and other reports shall be available for review excluding medical records, personnel records and personnel action reports. Idaho Department of Juvenile Corrections' ~~personnel~~ representatives shall be allowed to observe and interview juveniles offenders and staff concerning any matter pertaining to these rules. ~~Idaho Department of Juvenile Corrections personnel~~ Department representatives shall further have access to all parts of the ~~facility~~ detention center for the purpose of inspecting the physical plant.

(4-5-00)()

2021. DEPARTMENT PREPARED WRITTEN REPORT OR THEIR AGENTS.

~~Idaho Department of Juvenile Corrections personnel~~ Department representatives, shall prepare a written report of each inspection within thirty (30) days following such inspection and provide copies to the appropriate ~~facility~~ detention center administrator with copies to the governing body and the county attorney. The report will additionally be submitted to the director of the Idaho Department of Juvenile Corrections for consideration and review of the issuance or renewal of a license.

(4-5-00)()

2032. COMPLIANCE WITH STANDARDS ENFORCED.

~~If~~ Upon completion of an inspection, ~~a juvenile detention facility is found to be in violation of any part of these rules;~~ the ~~Idaho Department of Juvenile Corrections~~ department shall send notice of such compliance or non-compliance to the ~~facility~~ detention center administrator, ~~and~~ governing body responsible for the ~~facility~~ detention center, and Idaho County Risk Management Program where applicable.

(4-5-00)()

~~**01. Consideration of Official Notice.** Upon receipt of a notice of non-compliance from the Idaho Department of Juvenile Corrections, the facility administrator and governing body shall meet promptly to consider the official notice. Inspection personnel shall be available to advise and consult concerning appropriate corrective action.~~

(4-5-00)

021. Development of a Plan of Corrective Action. Upon receipt of a notice of noncompliance from the department, the facility detention center administrator and governing body shall develop a plan of corrective action to correct the deficiencies cited in the report. The plan shall include a description of the nature of non-compliance for each standard cited, the steps to be taken to correct the deficiency, and a projected completion date. Inspection representatives shall be available to advise and consult concerning an appropriate corrective action. The plan shall be submitted no later than sixty (60) days from receipt of notice to the Idaho Department of Juvenile Corrections department for approval.

(4-5-00)()

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032. Demonstration of Meaningful Progress Toward Achieving Compliance. Meaningful progress toward achieving compliance according to the submitted plan must be demonstrated during the time frame approved by the ~~Idaho Department of Juvenile Corrections department~~ in the corrective action plan. (4-5-00)(____)

2043. CONFORMITY WITH APPLICABLE LAWS AND REGULATIONS.

Juvenile detention ~~facilities~~ centers shall conform to laws, rules, and regulations adopted by the federal government, state of Idaho, the county, and the municipality in which such detention center is located including, but not limited to, all applicable public health, safety, and fire codes, building regulations, laws, and regulations set forth by the state of Idaho, the county, and the municipality in which such facility is located and interstate compact regulations. (4-5-00)(____)

2054. STANDARDS COMMITTEE.

A standing committee shall be created for the purpose of reviewing the standards, petitions for exemption from standards and requests for modification of standards. The committee will be made up of three committee members: one (1) representative and one (1) alternate from the detention center administrators, one (1) representative and one (1) alternate county commissioner, and one (1) representative from the ~~department of Juvenile Corrections~~. ~~The Standards Committee members and alternates are nominated by the Detention Center Administrators.~~ Final appointment of all Standards Committee members and alternates are made by the director of the Idaho Department of Juvenile Corrections. The detention center representative of detention center administrators and county commissioner representative ~~will~~ should not be from the same judicial district. Alternates ~~may~~ should not be from the same judicial district as their corresponding representative. Committee member-s' terms will run ~~one two~~ (12) years ~~from starting on~~ from October 1 ~~to September 30 the following~~ of the year in which the member is nominated and approved. ~~The committee is charged with reviewing any Petition for Exemption or Request for Modification to the Standards, researching the subject as necessary, and presenting a written recommended course of action to the Director of the Department of Juvenile Corrections.~~ If the petition for exemption or request for modification is initiated from the same district as a committee representative, that committee representative will abstain and the alternate will serve in place of said representative. ~~The Director retains the authority to make the final decision to approve or deny any requests or petitions.~~ (4-5-00)(____)

01. Petition for Exemption. When an exemption from a standard is desired, the ~~facility~~ detention center administrator shall submit a request, in writing, to the director of the Idaho department of Juvenile Corrections outlining the proposed alternative arrangement together with documentation showing how such arrangement will provide conditions at least equivalent to the corresponding standard. ~~The petition will be forwarded to the Standards Committee for review.~~ The director of the department will then make determinations as to the necessity, scheduling and convening of a special meeting of the Standards Committee. The Standards Committee will review the petition, prepare and submit its written recommendations to the director. The director retains the authority to make the final decision to approve or deny the petition. The petition for exemption, if granted, shall apply only to the petitioner for the specific ~~facility~~ detention center cited. An indemnification agreement will be entered into between the ~~facility~~ detention center and the Idaho Department of Juvenile Corrections in the event the petition for exemption is granted. (4-5-00)(____)

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02. Requests for Modification of Standards. In the event a standard becomes obsolete or unworkable, a request for modification may be filed with the director ~~of the Department of Juvenile Corrections~~. The request letter must represent the views of at least three detention ~~facility~~ center administrators and contain their signatures. ~~The letter will be forwarded to the Standards Committee for review and recommendation. The committee will determine if the request needs to be address immediately or can wait for the annual review and make recommendations to the Director. The Director will have the final authority to determine if standards will be changed and the timing of the change.~~ The director will then make determinations as to the necessity, scheduling and convening of a special meeting of the Standards Committee. If convened, the Standards Committee will review the request, prepare and submit its written recommendations to the director. The director retains the authority to make the final decision to promulgate rules or allow the standards to remain unmodified. (4-5-00)()

03. Modification of Standards by the Standards Committee. In the event that the Standards Committee determines that a standard is obsolete, unworkable, unclear, or otherwise unreasonable, the committee may submit written recommendations to the director for changes to the standards, along with explanations regarding the reasons for the requested changes. The director retains the authority to make the final decision to promulgate rules or allow the standards to remain unmodified. Any modification of the standards must be promulgated as rules in accordance with the Idaho Administrative Procedures Act. ()

034. ~~Annual Review of~~ Standards Committee Meetings. The Standards Committee will meet at least bi-annually to review the Juvenile Detention Center Standards, requests for modification of standards, or petitions for exemptions. The Standards Committee shall also meet when the director determines that a special meeting is necessary to review the juvenile detention center standards, requests for modification of standards or petitions for exemptions. ~~Requests for Modification may be considered at this time. If the committee feels a change in standards is warranted, they will submit a written report to the Director of the Department of Juvenile Corrections. The Director will have the final authority to determine if the standards will be changed and the timing of the change.~~ (4-5-00)()

2065. -- 209. (RESERVED).

210. ~~FACILITY~~ DETENTION CENTER ADMINISTRATION.

01. Legal Entity. The public or private agency operating a detention ~~facility~~ center is a legal entity, ~~or~~ part of a legal entity, or a political subdivision. (4-5-00)()

02. Governing Body. Governing body shall mean any public or private entity established or delegated as a source of legislative or administrative authority to provide the fiscal needs of the ~~facility~~ detention center administrator so that he may carry out the provisions of these rules. (4-5-00)()

03. Facility Detention Center Administrator. The ~~facility~~ detention center shall have a designated administrator who shall be responsible for all ~~facility~~ detention center operations. (4-5-00)()

04. Mission Statement. The ~~facility~~ detention center shall have a written mission

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statement which describes its philosophy and goals.

(4-5-00)(____)

05. Policy and Procedures. The facility detention center administrator shall develop and maintain written policies and procedures which shall safeguard the basic rights of juveniles offenders and shall safeguard the juveniles' offenders' freedom from discrimination based upon sex, race, creed, religion, national origin, disability, or political belief and establish practices that are consistent with fundamental legal principles, sound correctional practices, and humane treatment. These written policies and procedures shall be reviewed on a regular basis, updated as needed and made available to all facility detention center employees and the governing body. The policy and procedures manual shall be submitted to the prosecuting attorney or other legal authority for review as mandated by each facility's detention center and approved by county commissioners or other governing authority on a regular basis.

(4-5-00)(____)

211. FISCAL MANAGEMENT.

The annual budget request shall provide for an allocation of resources for facility detention center operations and programming. The methods used for collecting, safeguarding, and disbursing monies, including juveniles' offenders' personal funds held by the facility, shall comply with accepted accounting procedures and the laws of the state of Idaho.

(4-5-00)(____)

212. STAFF REQUIREMENTS AND STAFF DEVELOPMENT.

01. Twenty-Four Hour Supervision. The facility detention center shall be staffed by facility detention center employees on a twenty-four (24) hour basis when juveniles offenders are being housed.

(4-5-00)(____)

02. Staffing. The facility detention center shall have staff to perform all functions relating to security, supervision, services and programs as needed to operate the facility detention center. The facility detention center shall have policy and procedures in place governing staffing and shall submit a staffing plan to the department of ~~Juvenile Corrections~~ prior to licensing and renewal. The following staffing plan is a recommendation only, and is NOT mandatory. It is recommended that the staffing plan have at least two (2) staff awake and on duty through sleeping hours and the following staff during waking hours as governed by the "one (1) direct care staff to eight (8) juveniles offenders, plus one (1) staff" rule:

(4-5-00)(____)

a. If the facility detention center houses eight (8) or fewer juveniles offenders, there should be at least one (1) direct care staff and one (1) other staff awake at all times.

(4-5-00)(____)

b. If the facility detention center houses more than eight (8) juveniles, there should be one (1) direct care staff for each eight (8) juveniles plus one (1) additional staff awake at all times. Example: if the facility detention center houses thirty-two (32) ~~youth~~ juvenile offenders, four (4) direct care staff would be recommended (one (1) staff to eight (8) juveniles offenders), plus one (1) additional staff for a total of five (5) staff.

(4-5-00)(____)

03. Gender of Employees. At least one (1) of the facility detention center employees on duty should be female when females are housed in the facility detention center and at least one (1) ~~shall~~ should be male when males are housed in the facility detention center. An employee of the same gender as the juvenile offender being detained shall be on duty at the time of intake.

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(4-5-00)()

04. Minimum Qualifications.

a. Direct care ~~Personnel~~ staff, ~~or Direct Care Volunteers~~, at the time of employment, shall meet the minimum criminal history background ~~requirements that are outlined in the Idaho Peace Officers Standards and Training (P.O.S.T.) Detention Officer Standards. Decisions on hiring may be appealed to the governing body of the facility~~ and certification requirements as provided in IDAPA 11.11.02, "Rules of the Idaho Peace Officer Standards and Training Council for Juvenile Detention Officers". (4-5-00)()

b. Direct care volunteers, before starting volunteer services, shall meet the minimum criminal history background requirements as provided in IDAPA 11.11.02, "Rules of the Idaho Peace Officer Standards and Training Council for Juvenile Detention Officers". ()

05. Training and Staff Development Plan. Each juvenile detention ~~facility~~ center shall develop a staff training and development plan based on the policy and procedures of the ~~facility~~ detention center. ~~All Direct Care Personnel, paid or unpaid, shall be provided orientation training before undertaking their job duty assignments. The orientation and training plan should shall address areas such as First Aid/CPR, security procedures, supervision of juveniles, signs of suicide risks, suicide precautions, fire and emergency procedures, safety procedures and use of physical force regulations,. The orientation and training plan should also address areas such as report writing, juvenile rules of conduct, rights and responsibilities of juveniles, fire and emergency procedures, safety procedures, key control, interpersonal relations, social/cultural life styles of the juvenile population, communication skills, and counseling techniques. The plan shall also ensure that all juvenile detention officers earn the juvenile detention officer certificate as mandated in IDAPA 11.11.02, "Rules of the Idaho Peace Officer Standards and Training Council for Juvenile Detention Officers".~~ (4-5-00)()

a. All new direct care staff, paid or unpaid, shall be provided orientation training. The orientation and training plan shall address areas including, but not limited to: ()

- i. First aid/CPR; ()
- ii. Security procedures; ()
- iii. Supervision of juvenile offenders; ()
- iv. Signs of suicide risks; ()
- v. Suicide precautions; ()
- vi. Fire and emergency procedures; ()
- vii. Safety procedures; ()
- viii. Appropriate use of physical intervention; ()

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- ix. Report writing; ()
- x. Juvenile offender rules of conduct; ()
- xi. Rights and responsibilities of juvenile offenders; ()
- xii. Fire and emergency procedures; ()
- xiii. Safety procedures; ()
- xiv. Key control; ()
- xv. Interpersonal relations; ()
- xvi. Social/cultural life styles of the juvenile population; ()
- xvii. Communication skills; and ()
- xviii. Counseling techniques. ()

b. Ongoing training shall be provided at the minimum rate of twenty (20) hours for each subsequent year of employment. ()

213. -- 214. (RESERVED).

215. ~~FACILITY~~ DETENTION CENTER INFORMATION SYSTEMS.

01. Written Policy and Procedures. The ~~facility~~ detention center shall have written policy and procedures to govern the collection, management, and retention of information pertaining to juveniles offenders and the operation of the ~~facility~~ detention center. Written policy and procedures shall address, at a minimum, the following: ~~(4-5-00)~~()

- a. Accuracy of information, including procedures for verification; (4-5-00)
- b. Security of information, including access and protection from unauthorized disclosure;(4-5-00)
- c. Content of records; (4-5-00)
- d. Maintenance of records; (4-5-00)
- e. Length of retention; and (4-5-00)
- f. Method of storage or disposal of inactive records. (4-5-00)

02. Release of Information. Prior to release of information to agencies other than criminal justice authorities or other agencies with court orders for access, a written release of information shall be obtained from the juvenile's offender's parent, legal guardian or through a

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court order with a copy of that release placed in the juvenile's offender's file folder. ~~(4-5-00)~~()

03. Access to Records. Parents, legal guardians and staff shall be permitted access to information in the juvenile's offender's files and records as authorized by law. Juveniles offender's shall be permitted reasonable access under appropriate supervision to information in their own files and records. Absent a court order to the contrary, the facility detention center administrator may restrict the juvenile's offender's access to certain information, or provide a summary of the information when its disclosure to the juvenile offender presents a threat to the safety and security of the facility detention center or may be detrimental to the best interests of the juvenile offender. If a juvenile's offender's access to records is denied, documentation that states the reason for the denial shall be maintained by the facility detention center. ~~(4-5-00)~~()

216. DOCUMENTATION.

01. Shift Log. The facility detention center shall maintain documentation including time notations on each shift which includes the following information, at a minimum:

~~(4-5-00)~~()

a. ~~Personnel~~ Direct care staff on duty; ~~(4-5-00)~~()

b. Time and results of security or well-being checks and head counts; (4-5-00)

c. Names of juveniles offenders received or discharged with times recorded; ~~(4-5-00)~~()

d. Names of juveniles offenders temporarily released or returned for such purposes as court appearances, work/education releases, furloughs, or other authorized absences from the facility detention center with times recorded; ~~(4-5-00)~~()

e. Time of meals served; (4-5-00)

f. Times and shift activities, including any action taken on the handling of any unusual or routine incidents; (4-5-00)

g. Notation and times of entry and exit of all visitors, including physicians, attorneys, volunteers, and others; (4-5-00)

h. Notations and times of problems, disturbances, escapes; (4-5-00)

i. Notations and times of any use of emergency or restraint equipment; and (4-5-00)

j. Notation and times of perimeter security checks. (4-5-00)

02. Housing Assignment Roster. The facility detention center shall maintain a master file or roster board indicating the current housing assignment and status of all juveniles offenders detained. ~~(4-5-00)~~()

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03. Visitor's Register. The *facility* detention center shall maintain a visitor's register in which the following will be recorded: ~~(4-5-00)~~(____)

- a. Name of each visitor; (4-5-00)
- b. Time and date of visit; (4-5-00)
- c. Juvenile offender to be visited; and ~~(4-5-00)~~(____)
- d. Relationship of visitor to juvenile offender and other pertinent information. ~~(4-5-00)~~(____)

04. Juvenile Detention Records. The *facility* detention center shall classify, retain and maintain an accurate and current record for each juvenile offender detained in accordance with the provisions of Title 31, Chapter 8, Section 31-871, Idaho Code. ~~Materials in the individual's record shall be clearly identified as to source, verification and confidentiality.~~ The record shall contain, at a minimum, the following: ~~(4-5-00)~~(____)

- a. Booking and intake records; (4-5-00)
- b. Record of court appearances; (4-5-00)
- c. Documentation of authority to hold; (4-5-00)
- d. Probation officer or caseworker, if assigned; (4-5-00)
- e. Itemized inventory forms for all clothing, property, money, and valuables taken from the juvenile offender; ~~(4-5-00)~~(____)
- f. Record of deposits/withdrawals from the juvenile's offender's account; ~~(4-5-00)~~(____)
- g. Classification records, if any; (4-5-00)
- h. Records of participation in programs and services; (4-5-00)
- i. Rule infraction reports; (4-5-00)
- j. Records of disciplinary actions; (4-5-00)
- k. Grievances filed and their dispositions; (4-5-00)
- l. Release records; (4-5-00)
- m. Personal information and emergency contact information; (4-5-00)
- n. Medical history and documentation of a completed admission medical screening; ~~(4-5-00)~~(____)

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- o. Visitor records; (4-5-00)
- p. Incident reports; (4-5-00)
- q. Photographs. (4-5-00)

217. MEDICAL INFORMATION.

01. Medical Files. The health authority shall maintain medical records for each juvenile offender which shall be kept separate from other records. ~~(4-5-00)~~()

02. Access to Medical Files. The *facility* detention center administrator, in conjunction with the health authority, shall establish procedures to determine access to medical files in accordance with privacy laws. ~~(4-5-00)~~()

218. -- 219. (RESERVED).

Former Section 220 has been renumbered to 223

220. PROHIBITED CONTACT AND PRISON RAPE ELIMINATION ACT COMPLIANCE.

01. Sexual Contact. The detention center shall have written policies prohibiting the sexual contact, by any employee, with a juvenile offender, as defined in Title 18, Chapter 61, Section 18-6110, Idaho Code. These policies shall contain at a minimum the following provisions: ()

a. The detention center shall make every effort to inform juvenile offenders of the means available to safely report rape and sexual activity; ()

b. The detention center shall provide two (2) or more avenues for a juvenile offender to report rape and sexual activity; ()

c. The detention center shall have a process, which requires reporting of any instance of solicitation of staff by juvenile offenders; ()

d. The detention center staff shall treat all information regarding sexual assault and sexual activity with confidentiality; ()

e. The detention center shall have a process in place for an initial internal investigation when a complaint is reported and a subsequent external investigation when rape or sexual activity is suspected; ()

f. The detention center shall make every attempt to house the juvenile offender who was allegedly sexually assaulted away from the accused offender until the investigation is

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complete; and ()

g. The detention center will provide at a minimum one (1) hour of annual training for staff concerning the statutory prohibition of sexual contact with a juvenile offender, including criminal prosecution. ()

02. Sexual Assault of Juvenile Offenders. The detention center, in accordance with the Prison Rape Elimination Act of 2003, shall have written policy and procedures that promote zero tolerance toward the sexual assault of juvenile offenders. The policy and procedures shall contain, at a minimum, the following provisions: ()

a. The detention center staff shall make every effort to inform juvenile offenders of the means available to safely report rape and sexual activity; ()

b. The detention center staff shall provide two (2) or more avenues for a juvenile offender to report rape and sexual activity; ()

c. The detention center staff shall treat all information regarding sexual assault and sexual activity with confidentiality; ()

d. The detention center shall have a process in place for an initial internal investigation when a complaint is reported and a subsequent external investigation when rape or sexual activity is suspected; ()

e. The detention center shall make every attempt to house the juvenile offender who was allegedly sexually assaulted away from the accused offender until the investigation is complete; ()

f. If the detention center is selected to receive the yearly "Survey on Sexual Violence" from the Bureau of Justice Statistics, the detention center shall complete and submit the survey; and ()

g. The detention center shall provide at a minimum one (1) hour of annual training on mandatory reporting procedures as outlined in Title 16, Chapter 16, Section 16-1605, Idaho Code. ()

221. -- 2232. (RESERVED).

2203. SAFETY AND EMERGENCY PROCEDURES.

01. Written Policy and Procedures. The *facility* detention center shall have written policy and procedures which address fire safety, fire emergency evacuation plans, other safety-related practices, and the *facility's* detention center's plans for responding to emergency situations. (4-5-00)()

02. Compliance with Fire Code. The *facility* detention center shall comply with local and state fire codes. and at a minimum, make A request for an annual inspection shall be made to

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the local fire marshall or authorized agency. ~~to be inspected to comply with fire safety guidelines and~~ The detention center shall maintain documentation of this inspection. (4-5-00)(____)

224. ~~FACILITY~~ DETENTION CENTER SECURITY.

01. **Security and Control Policy.** The ~~facility's~~ detention center's policy and procedures manual shall contain all procedures for ~~facility~~ detention center security and control, with detailed instructions for implementing these procedures, and are reviewed at least annually and updated as needed. The manual shall be made available to all staff. (4-5-00)(____)

02. **Personal Observation.** The ~~facility~~ detention center shall have written policy and procedures which ~~Facility~~ detention center policy and procedures shall govern the observation of all juveniles offenders and shall, at a minimum, require direct care staff to personally observe all juveniles offenders every thirty (30) minutes on an irregular schedule and the time of such checks shall be logged. More frequent checks should be made of juveniles offenders who are violent, suicidal, mentally ill, or who have other special problems or needs warranting closer observation. (4-5-00)(____)

03. **Cross Gender Supervision.** ~~Policies~~ The detention center shall have written policy and procedures governing supervision of female juveniles by male employees and male juveniles offenders by female employees which shall be based on privacy needs and legal standards. Except in emergencies, ~~facility~~ detention center employees shall not observe juveniles offenders of the opposite sex in shower areas. Reasonable accommodation of privacy needs shall be observed. (4-5-00)(____)

04. **Head Counts.** The ~~facility~~ detention center shall have written policy and procedures which shall outline a system to physically count or account for all juveniles offenders, including juveniles offenders on work release, educational release, or other temporary leave status who may be absent from the ~~facility~~ detention center for certain periods of the day. At least three (3) documented counts shall be conducted every twenty-four (24) hours. At least one (1) count shall be conducted each shift and there shall be at least four (4) hours between each count. (4-5-00)(____)

05. **~~Electronic~~ Camera Surveillance.** ~~Electronic monitoring~~ Camera surveillance equipment should not be used in place of the personal observation of juveniles ~~required~~ offenders. (4-5-00)(____)

225. PHYSICAL ~~CONTROL~~ INTERVENTION.

01. **Appropriate Use of Physical ~~Force~~ Intervention.** The ~~facility~~ detention center shall have written policies and procedures which govern the use of physical ~~force~~ intervention. The use of physical ~~force~~ intervention shall be restricted to instances of justifiable self-protection, the protection of others or property, the prevention of escapes, or the suppression of disorder and then only to the degree necessary to restore order. (4-5-00)(____)

a. Physical ~~force~~ intervention shall not be used as punishment. (4-5-00)(____)

b. A written report shall be made following any use of physical ~~force~~ intervention.

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The report will be reviewed by the facility detention center administrator and will be maintained as part of the facility detention center records. (4-5-00)()

02. Use of Mechanical Restraints. The facility detention center shall have written policies and procedures which govern the use of ~~physical~~ mechanical restraints. The use of restraints shall be restricted to justifiable instances, ~~and~~ during transfer, ~~and~~ for medical reasons under the direction of medical staff. Justifiable instances shall be specifically defined in each ~~facility's~~ detention center's policies and procedures. Written policy and procedures shall provide that instruments of restraint are never applied as punishment and are applied only with the approval of the facility detention center administrator or designee, ~~and that juvenile offenders in mechanical restraints are not left unattended.~~ (4-5-00)()

a. Restraints shall not be used as punishment or for the convenience of staff. (4-5-00)

b. ~~Written Report of Use of Restraints.~~ A written report shall be made following any use of restraints except for transfer. The report will be reviewed by the facility detention center administrator and will be maintained as part of the facility detention center records. (4-5-00)()

226. PERIMETER SECURITY CHECKS AND SECURITY INSPECTIONS.

01. Perimeter Security Checks. The facility detention center shall have written policy and procedures ~~that~~ which govern the frequency and performing of perimeter security checks. (4-5-00)()

02. Security Inspections. The facility detention center administrator or his designee shall conduct ~~weekly~~ monthly inspections of all locks, windows, floors, walls, ventilator covers, access plates, glass panels, protection screens, doors, and other security equipment. The date, time, and results of these inspections shall be recorded on a checklist or log. The facility detention center administrator shall promptly correct any identified problems. (4-5-00)()

227. SEARCH AND SEIZURE.

01. Facility Detention Center Search Plan. The facility detention center shall have written policies and procedures which outline a facility detention center search plan for the control of contraband and weapons ~~which~~ and provides for unannounced and irregularly timed searches of juveniles' offenders' rooms, day rooms, and activity, work or other areas accessible to juveniles' offenders and searches of all materials and supplies coming into the facility detention center. (4-5-00)()

02. Personal Searches. The facility detention center shall have written policies and procedures governing the searching of juveniles' offenders for the control of contraband and weapons which includes, at a minimum, the following provisions: (4-5-00)()

a. Search of juveniles' offenders upon entering the security perimeter; (4-5-00)()

b. Search of newly admitted juveniles' offenders; (4-5-00)()

c. Periodic unannounced and irregularly timed searches of juveniles' offenders;

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(4-5-00)(____)

d. Provision for strip searches and body cavity searches at such times when there exists reasonable belief that the juvenile offender is in the possession of contraband or weapons or other prohibited material and shall only be conducted as described in Subsections 227.02.f. and 227.02.g.; (4-5-00)(____)

e. Pat searches. Except in cases of emergency, pat searches should be conducted by direct care personnel of the same sex; (4-5-00)

f. Strip searches. All strip searches shall be conducted in private and in a manner which preserves the dignity of the juvenile offender to the greatest extent possible and under sanitary conditions. All strip searches shall be conducted by direct care personnel of the same sex as the juvenile offender or by the health authority or medical employee. No persons of the opposite sex of the juvenile offender, other than the health authority or medical employee, shall be present observe the juvenile offender during the strip search ~~other than the health authority or medical employee;~~ and (4-5-00)(____)

g. Body cavity searches. All body cavity searches shall be conducted in private and in a manner which preserves the dignity of the juvenile offender to the greatest extent possible and under sanitary conditions. Body cavity searches shall be conducted only by the health authority or by a medical employee. No persons of the opposite sex of the juvenile offender, other than the health authority or medical employee, shall ~~be present~~ observe the juvenile offender during body cavity searches. (4-5-00)(____)

03. **All Body Cavity Searches Shall Be Documented.** Documentation of body cavity searches shall be maintained in ~~facility~~ detention center records and in the juvenile's offender's record. (4-5-00)(____)

04. **Seizure and Disposition of Contraband.** The detention center shall have written policy and procedures to govern the handling of contraband. All contraband found during facility or juvenile offender searches shall be seized and processed according to detention center policy, including involvement of law enforcement, if appropriate. The seizure and disposition of the contraband shall be documented. When a crime is suspected to have been committed within the ~~facility~~ detention center, all evidence shall be maintained and made available to the proper authorities. (4-5-00)(____)

228. SECURITY DEVICES.

01. **Key Control.** The ~~facility~~ detention center shall have policy and procedures in place to ~~control keys and tools~~ govern key and tool control. (4-5-00)(____)

02. **Security Devices.** The detention center shall have written policy and procedures to govern the use of security devices. ~~Facility~~ Detention center employees shall use only security equipment on which they have been properly trained and is issued through, or authorized by, the ~~facility~~ detention center administrator. Certification of proper training shall be kept in ~~facility~~ detention records. (4-5-00)(____)

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03. Weapons Locker. The *facility* detention center shall provide a weapons locker or similar arrangement at security perimeter entrances for the temporary storage of weapons belonging to law enforcement officers who must enter the *facility* detention center. ~~(4-5-00)~~(____)

229. (RESERVED).

230. FOOD SERVICES.

The *facility* detention center shall have written policies and procedures which govern food service. If food is not obtained through a food service contract from an outside source, the *facility's* detention center's food service operation shall be supervised by a designated employee who has experience and/or training in meal preparation, menu planning, staff supervision, ordering procedures, health and safety policies, theft precautions, and inventory control. If food is obtained through a food service contract from an outside source, provisions shall be made to assure that the contractor complies with the applicable section of these rules. ~~(4-5-00)~~(____)

231. (RESERVED).

232. SPECIAL DIETS.

The *facility* detention center shall have written policies and procedures which govern special diets. ~~(4-5-00)~~(____)

01. Special Diets, Medical. Special diets prescribed by a physician shall be followed according to the orders of the treating physician or dentist. (4-5-00)

02. Special Diets, Religious. Provisions should be made for special diets when a juvenile's offender's religious beliefs require adherence to particular dietary practices. (4-5-00)

233. DIETARY RECORDS.

01. Food Service Records. The *facility* detention center shall maintain an accurate record of all meals served to juveniles offenders, including special diets. All menus shall be planned, dated, and available for review at least one (1) week in advance. Notations shall be made of any changes in the menu. Menus shall be kept at least one (1) year after use. ~~(4-5-00)~~(____)

02. Review of Menus. Menus and records of meals served shall be reviewed on a regular basis at least annually by a licensed dietician, physician or nutritionist to verify nutritional adequacy or shall meet the current guidelines of the National School Lunch Program. The *facility* detention center shall maintain documentation of the dietician's, physician's or nutritionist's review and verification. Subsequent menus shall be promptly revised to eliminate any deficiencies noted. ~~(4-5-00)~~(____)

234. MEALS.

01. Providing Meals. The *facility* detention center shall have written policies and procedures which govern the providing of meals. Three (3) meals, and pursuant to Section 20-518, Idaho Code, at least two (2) of which includes a hot entree, shall be served daily ~~per Idaho Code.~~ ~~(4-5-00)~~(____)

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a. Meals must be served at approximately the same time every day. No more than fourteen (14) hours shall elapse between the evening meal and breakfast the next day unless an evening snack is served. If snacks are provided, up to sixteen (16) hours may elapse between the evening meal and breakfast. (4-5-00)

b. ~~Youth~~ Juvenile offenders out of the ~~facility~~ detention center attending court hearings or other approved functions when meals are served shall have a meal provided upon their return if they have not already eaten. (4-5-00)()

c. If meals are provided to staff, the menu should be the same as provided to juveniles offenders. (4-5-00)()

d. The health authority or a medical employee shall be notified when a juvenile offender does not eat three (3) consecutive meals. (4-5-00)()

02. **Use of Food as Disciplinary Sanction Prohibited.** ~~Food~~ The detention center shall have written policy and procedures which dictate that food shall not be withheld from juveniles offenders, nor the menu varied as a disciplinary sanction. (4-5-00)()

03. **Control of Utensils.** The ~~facility~~ detention center shall have a control system for the issuance and return of all food preparation and eating utensils. (4-5-00)()

235. FOOD SERVICE SANITATION.

01. ~~Sanitation. Food service and related sanitation practices shall comply with the requirements of the State Health Department or other appropriate regulatory body.~~ **Written Policy and Procedures.** The detention center shall have written policy and procedures to govern food service sanitation, and shall at a minimum include, but not be limited to, the following items: (4-5-00)()

a. Food service and related sanitation practices shall comply with the requirements of the state health department or other appropriate regulatory body. The ~~facility's~~ detention center's food service operation shall be inspected in the manner and frequency mandated by local health authorities. administrator shall solicit at least an annual sanitation inspection by a qualified entity. The results of such inspections shall be documented and the ~~facility~~ detention center administrator shall take prompt action to correct any identified problems; (4-5-00)()

b. All persons assigned to food service work, including juvenile offenders, shall be in good health and free from any communicable or infectious disease, vermin, or open, infected wounds; ()

c. All persons assigned to food service work shall be familiar with and adhere to appropriate food service sanitation practices and requirements; ()

d. All dishes, utensils, pots, pans, trays, and food carts used in the preparation, serving, or consumption of food shall be washed and rinsed promptly after every meal. Disposable utensils and dishes shall not be reused; and ()

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~~e.~~ Food service area ventilation systems shall not be altered from engineering or architectural specifications, except when repair or upgrade is needed. (____)

~~b02.~~ **Food Service Inspections.** A ~~daily~~ weekly inspection of all food service areas and equipment shall be conducted by the ~~facility detention center administrator, food service personnel, or other facility employee who is familiar with food service sanitation requirements and practices~~ or designee. (4-5-00)(____)

~~02.~~ **Screening of Food Service Workers.** Written policy shall provide that all persons assigned to food service work, including juveniles, shall be in good health and free from any communicable or infectious disease, vermin, or open, infected wounds. (4-5-00)

~~03.~~ **Food Service Sanitation Training.** All persons assigned to food service work shall be familiar with and adhere to appropriate food service sanitation practices and requirements. (4-5-00)

~~236.~~ **FOOD SERVICE SUPPORT.**

~~01.~~ **Dish Washing.** All dishes, utensils, pots, pans, trays, and food carts used in the preparation, serving, or consumption of food shall be washed and rinsed promptly after every meal. Disposable utensils and dishes shall not be reused. (4-5-00)

~~02.~~ **Ventilation.** Adequate ventilation shall be available to dispel excessive heat, steam, condensation, obnoxious odors, vapors, smoke, and fumes from the kitchen area. All vent openings to outside air shall be screened to prevent entrance of dirt, dust, and other contaminants. (4-5-00)

~~237.~~ -- 239. (RESERVED).

240. SANITATION AND HYGIENE.

01. Sanitation Inspections. Written policy and procedures shall provide that the ~~facility detention center~~ be maintained in a clean and healthful condition and that the ~~facility detention center administrator or his~~ designee shall conduct ~~at least weekly~~ monthly sanitation and maintenance inspections of all areas of the ~~facility detention center~~. (4-5-00)(____)

02. Vermin Control. The ~~facility detention center~~ shall have a plan for the control of vermin and pests which includes inspections and fumigations, as necessary, by a licensed pest control professional. (4-5-00)(____)

03. Housekeeping Plan. The ~~facility detention center~~ shall have a written housekeeping plan for all areas of the physical plant which provides for daily housekeeping and maintenance by assigning specific duties to juveniles ~~offenders~~ and staff. All work shall be assigned and supervised by ~~facility detention center~~ employees. No juvenile ~~offender~~ shall be allowed to assign work to other juveniles ~~offenders~~. (4-5-00)(____)

04. Maintenance and Repair. The ~~facility detention center~~ shall have written policy and procedures to provide that all plumbing, lighting, heating and ventilation equipment,

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furnishings, and security hardware in juvenile offender living areas shall be kept in good working order. Any broken fixture, equipment, furnishings, or hardware shall be promptly repaired or replaced. Painted surfaces shall not be allowed to become scaled or deteriorated. (4-5-00)(____)

05. Water Quality. ~~Where the facility's water supply is obtained from a private source, the source shall be properly located, constructed, and operated to protect it from contamination and pollution.~~ The water shall meet all current standards set by the applicable state and/or local authority as to bacteriological, chemical, and physical tests for purity. (4-5-00)(____)

241. -- 244. (RESERVED).

245. PERSONAL HYGIENE.

01. Personal Hygiene Items. The ~~facility~~ detention center shall ~~provide~~ have written policy and procedures which shall govern the provision of, without charge, the following articles necessary for maintaining proper personal hygiene: (4-5-00)(____)

- a. Soap; (4-5-00)
- b. Toothbrush; (4-5-00)
- c. Toothpaste; (4-5-00)
- d. Comb or brush; (4-5-00)(____)
- e. Shaving equipment upon request; ~~and~~ (4-5-00)(____)
- f. Products for female hygiene needs; and (4-5-00)(____)

~~02g.~~ Toilet paper. ~~Toilet paper shall be available at all times in juveniles' toilet areas.~~ (4-5-00)(____)

02. Removal of Personal Hygiene Items. The detention center shall have written policy and procedures that govern the removal of personal hygiene items from juvenile offenders' sleeping areas. Removal must be based upon sufficient reason to believe that the juvenile offender's access to the items poses a risk to the safety of juvenile offenders, staff or others, or poses a security risk to the detention center. (____)

03. Clothing and Linens. The ~~facility~~ detention center shall provide for the issue of clean clothing, bedding, linens, and towels to new juveniles offenders held overnight. At a minimum, the following shall be provided: (4-5-00)(____)

- a. A set of standard ~~facility~~ detention center clothing or uniform; (4-5-00)(____)
- b. Fire-retardant mattress; (4-5-00)
- c. Pillow and pillow case; (4-5-00)

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- d. Two (2) sheets or one (1) sheet and one (1) mattress cover; (4-5-00)
- e. Sufficient blankets to provide comfort under existing temperature conditions; and (4-5-00)
- f. One (1) clean towel. (4-5-00)

04. Laundry Services. Laundry services shall be sufficient to allow required clothing, bedding, and towel exchanges for juveniles offenders. ~~(4-5-00)~~(____)

a. Clothing ~~worn~~ and towels used by the juvenile offender while in the detention facility center shall be laundered or exchanged at least twice ~~(2)~~ each week. ~~(4-5-00)~~(____)

b. Linen shall be changed and laundered or exchanged at least once weekly or more often, as necessary. (4-5-00)

c. Blankets in use shall be laundered or exchanged at least monthly, or before re-issue to another juvenile offender. ~~(4-5-00)~~(____)

~~d. Towels shall be laundered or exchanged at least twice weekly.~~ ~~(4-5-00)~~

05. Clothing and Linen Supplies. The facility detention center inventory of clothing, bedding, linen, and towels shall exceed the maximum population to ensure that a reserve is always available. ~~(4-5-00)~~(____)

246. -- 249. (RESERVED).

250. HEALTH SERVICES.

01. Written Policy and Procedures. The facility detention center shall have written policies and procedures to govern the delivery of reasonable medical, dental, and mental health services. These written policies and procedures must at a minimum address, but are not limited to the following: ~~(4-5-00)~~(____)

a. Admission medical screening must be documented and performed on all juveniles offenders upon admission to the facility detention center. The medical screening should include inquiry of current illness and health problems, dental problems, sexually transmitted and other infectious diseases, medication taken and special health requirements, if any, the use of alcohol or drugs, mental illness and/or suicidal behavior, observations of unusual behavior, including state of consciousness, mental status, appearance, conduct, tremor, sweating, body deformities, physical injuries, trauma markings, bruises, jaundice, rashes, evidence of body vermin, and ease of movement; ~~(4-5-00)~~(____)

b. ~~Collection of health appraisal data within fourteen (14) days~~ Handling of juvenile offenders' requests for medical treatment; ~~(4-5-00)~~(____)

c. Non-emergency medical services; (4-5-00)

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- d. Emergency medical and dental services; (4-5-00)
 - e. Emergency evacuation plan of juveniles offenders from the facility detention center; ~~(4-5-00)()~~
 - f. Use of an emergency vehicle; (4-5-00)
 - g. Use of one (1) or more hospital emergency rooms or other appropriate health care facility; (4-5-00)
 - h. Emergency on-call physician and dental services when the emergency health care facility is not located nearby; (4-5-00)
 - i. First-aid and CPR instructions and training, including the availability of first-aid supplies; (4-5-00)
 - j. Screening, referral, and care of juveniles offenders who may be suicide-prone, or experience physical, mental or emotional disabilities; ~~(4-5-00)()~~
 - k. Arrangements for providing close medical supervision of juveniles offenders with special medical or psychiatric problems; ~~(4-5-00)()~~
 - l. Delousing procedures; (4-5-00)
 - m. Infectious disease control and medical isolation; (4-5-00)
 - n. Temporary, immediate isolation, and proper examination by the medical employee of juveniles offenders suspected of having contagious or infectious diseases ~~shall be temporarily isolated immediately from other juveniles and shall be examined by a health care provider promptly~~; ~~(4-5-00)()~~
 - o. Management of pharmaceuticals, including storage in a secure location; and ~~(4-5-00)()~~
 - p. Notification of next of kin ~~and/or~~ appropriate authorities in case of serious illness, injury or death; ~~and~~; ~~(4-5-00)()~~
 - ~~q. A juvenile's requests for medical treatment. (4-5-00)~~
- 02. Medical Judgements.** Except for regulations necessary to ensure the safety and order of the facility detention center, all matters of medical, mental health, and dental judgement shall be the sole province of the health authority, who shall have final responsibility for decisions related to medical judgements. ~~(4-5-00)()~~
- 03. Informed Consent.** Permission to perform medical, surgical, dental or other remedial treatment shall be obtained from parents, spouse, guardian, court or other competent person as stated in Title 16, Chapter 16, Section 16-161627, Idaho Code. ~~(4-5-00)()~~

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04. Health Appraisal. A ~~physical assessment~~ health appraisal for each juvenile offender shall be provided by the health authority or medical employee within fourteen (14) days of admission. (4-5-00)(____)

251. -- 254. (RESERVED).

255. RULES AND DISCIPLINE.

01. Written Policy and Procedures. The ~~facility~~ detention center shall have written policy and procedures for maintaining discipline and regulating juveniles' offenders' conduct. The following general principle shall apply: (4-5-00)(____)

a. The conduct of juveniles offenders shall be regulated in a manner which encourages and supports appropriate behavior, with penalties for negative behavior; (4-5-00)(____)

b. The ~~facility~~ detention center shall have written rules of conduct which specify prohibited acts ~~within the facility~~, the penalties that may be imposed for various degrees of violation, and the disciplinary procedures to be followed. ~~Upon admission, each juvenile shall be provided a copy of the rules. If, at any time, a literacy or language barrier is recognized, the facility shall make good faith efforts to provide understanding;~~ (4-5-00)(____)

c. Disciplinary action shall be of a nature to regulate juveniles' offenders' behavior within acceptable limits and shall be taken at such times and in such degrees as necessary to accomplish this objective; (4-5-00)(____)

d. The behavior of juveniles offenders shall be controlled in an impartial and consistent manner; (4-5-00)(____)

e. Disciplinary action shall not be arbitrary, capricious, retaliatory, or vengeful; (4-5-00)

f. Corporal or unusual punishment is prohibited, and care shall be taken to insure juveniles' offenders' freedom from personal abuse, humiliation, mental abuse, personal injury, disease, property damage, harassment, or punitive interference with daily functions of living, such as eating or sleeping; (4-5-00)(____)

g. Use of restraints or use of physical force as punishment is prohibited; ~~Use of restraints or physical force may be used only in accordance with written Policy and Procedure and limited to the following situations:~~ (4-5-00)(____)

i. ~~Protection of a juvenile from self injury;~~ (4-5-00)

ii. ~~Prevention of injury to others;~~ (4-5-00)

iii. ~~Precaution during transfer;~~ (4-5-00)

iv. ~~Medical reasons under the direction of medical staff; and~~ (4-5-00)

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- ~~v. Prevention of property damage.~~ (4-5-00)
- h. Withholding of food or variation of diet as punishment is prohibited; and (4-5-00)
- i. Juveniles offenders shall not be subject to any situation in which juveniles offenders impose discipline on each other. (4-5-00)(____)
- 02. Resolution of Rule Infractions.** The facility detention center shall have written policy and procedures to define and govern the resolution of rule infractions. (4-5-00)(____)
- 03. Grievance Procedures.** The facility detention center shall have written policy and procedures for juveniles offenders which will identify grievable issues and define the grievance process. (4-5-00)(____)
- 04. Criminal Law Violations.** ~~When a juvenile allegedly commits an act that violates federal, state, or local criminal law, the case shall be promptly referred~~ The detention center shall have written policy and procedures to govern the handling of incidents that involve the violation of federal, state, or local criminal law, including prompt referral to the appropriate authority for possible investigation and prosecution. (4-5-00)(____)

256. MAIL, VISITING, TELEPHONE.

- 01. Written Policy and Procedures.** These detention center shall have written policy and procedures which shall govern the practices of handling mail, visitation, use of the telephone, and any limitations or restriction on these privileges. Juveniles offenders shall have the opportunity to receive visits and to communicate and correspond with persons, representatives of the media or organizations, subject to the limitations necessary to maintain facility detention center security and order. (4-5-00)(____)
- 02. Mail Service.** Mail, other than sent to or received from public officials, judges, attorneys, courts, government officials and officials of the confining authority, may be opened and inspected for contraband. (4-5-00)
- 03. Telephone Service.** All juveniles offenders, except those restricted as a result of disciplinary action, shall be provided the opportunity to complete at least two (2) telephone calls weekly to maintain family and community ties. (4-5-00)(____)
- a. Telephone calls shall not be monitored, except where legitimate reason exists in order to maintain security and order in the facility detention center. ~~If calls are monitored, the juvenile shall be so notified.~~ Notification that the juvenile offender's phone calls may be monitored should be posted in the detention center. (4-5-00)(____)
- b. The facility detention center may require that any costs for telephone calls be borne by the juvenile offender or the party called. (4-5-00)(____)
- c. Written policy and procedures shall grant all juveniles offenders the right to make at least one (1) local or collect long distance telephone call to family members, attorneys, or other

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approved individuals during the admissions process. (4-5-00)(____)

d. Juveniles offenders shall be allowed to make a reasonable number of telephone calls to their attorneys. (4-5-00)(____)

i. Telephone calls to attorneys shall be of reasonable duration. (4-5-00)

ii. Telephone calls to attorneys shall not be monitored. (4-5-00)

iii. Telephone calls to attorneys shall not be revoked as a disciplinary measure. (4-5-00)

04. Visitation Restrictions. The parents/ or legal guardians, probation officer, parole officer, ~~facility~~ detention center administrator or the court of jurisdiction may impose restrictions on who may visit a juvenile offender. (4-5-00)(____)

05. Search of Visitors. Written policy and procedures shall specify that visitors register upon entry into the ~~facility~~ detention center and the circumstances under which visitors are searched and supervised during the visit. (4-5-00)(____)

06. Confidential Visits. The ~~facility~~ detention center shall provide juveniles offenders adequate opportunities for confidential access to courts, attorneys and their authorized representatives, probation and parole officers, counselors, caseworkers and the clergy. (4-5-00)(____)

07. Visitation. Attorneys, probation and parole officers, counselors, caseworkers and clergy shall be permitted to visit juveniles offenders at reasonable hours other than during regularly scheduled visiting hours. (4-5-00)(____)

a. Visits with attorneys, probation and parole officers, counselors, caseworkers and clergy shall not be monitored, except that ~~facility~~ detention center employees may visually observe the visitation as necessary to maintain appropriate levels of security. (4-5-00)(____)

b. Visits with attorneys, probation and parole officers, counselors, caseworkers or clergy shall be of the contact type unless otherwise indicated by the juvenile offender or visitor, or the ~~facility~~ detention center administrator determines there is a substantial security justification to restrict the visit to a non-contact type. When a contact visit is not allowed, the reasons for the restriction shall be documented in the juvenile's offender's record. (4-5-00)(____)

257. -- 260. (RESERVED).

261. ADMISSION.

01. Orientation Materials. Written policy and procedures shall provide that new juveniles offenders receive orientation materials, including conduct rules. If, at any time, a literacy or language barrier is recognized, the ~~facility~~ detention center shall make good faith efforts to assure that the juvenile offender understands the material. (4-5-00)(____)

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02. Written Procedures for Admission. The ~~facility~~ detention center shall have written policy and procedures for admission of juveniles offenders which shall address, but are not limited to, the following: (4-5-00)(____)

a. Determination that the juvenile offender is lawfully committed to the ~~facility~~ detention center: (4-5-00)(____)

b. The classification of juveniles offenders in regard to sleeping, housing arrangements, and programming: (4-5-00)(____)

c. If the juvenile offender shows signs of illness, injury, is incoherent, or unconscious, he ~~or she~~ shall not be admitted to the ~~facility~~ detention center until the committing officer has been provided written documentation from a medical personnel or a physician of examination, treatment, and fitness for confinement: (4-5-00)(____)

d. A complete search of the juvenile offender and possessions: (4-5-00)(____)

e. The disposition of personal property: (4-5-00)(____)

f. Provision of shower and ~~hair care, if necessary.~~ the issuance of detention clothing and personal hygiene articles: (4-5-00)(____)

~~g. The issuance of clean, laundered clothing, as needed.~~ (4-5-00)

~~h. The issuance of personal hygiene articles.~~ (4-5-00)

~~ig.~~ The provision of medical, dental and mental health screening: (4-5-00)(____)

~~jh. The assignment to housing unit.~~ Male and female juveniles offenders shall not occupy the same sleeping room: (4-5-00)(____)

~~ki.~~ The recording of basic personal data and information: (4-5-00)(____)

~~lj.~~ The Providing assistance to juveniles offenders in notifying their families of their admission and the discussion of procedures for mailing and visiting: and (4-5-00)(____)

~~mk.~~ The fingerprinting and photographing in accordance with Title 20, Chapter 5, Section 20-516(8), Idaho Code. (4-5-00)(____)

03. Court Appearance Within Twenty-Four Hours. According to Title 20, Chapter 5, Section 20-516(4), Idaho Code, written policy and procedures shall ensure that any juvenile offender placed in detention or shelter care be brought to court within twenty-four (24) hours, excluding Saturdays, Sundays and holidays for a detention hearing to determine where the juvenile offender will be placed until the next hearing. Status offenders shall not be placed in any jail or detention ~~facility~~ center, but instead may be placed in juvenile shelter care facilities. (4-5-00)(____)

04. Limitations of Detention. Written policy and procedures shall limit the use of

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detention in accordance with Title 20, Chapter 5, Section 20-516, Idaho Code. (4-5-00)(____)

262. RELEASE.

01. Release. Written policy and procedures shall govern the release of any juvenile offender and the release process including, but not limited to, verification of juvenile's offender's identity, verification of release papers, completion of release arrangements, including the person or agency to whom the juvenile offender is being released, return of personal effects, completion of any pending action, and instructions on forwarding mail. (4-5-00)(____)

02. Community Leaves. Written policy and procedures shall govern escorted and unsecured day leaves into the community. (4-5-00)(____)

03. Personal Property Complaints. Written policy and procedures shall govern a procedure for handling complaints about personal property. (4-5-00)

04. Disposal of Property. Property not claimed within four (4) months of a juvenile's discharge may be disposed of by the facility detention center in accordance with Title 55, Chapter 14, Section 55-1402, Idaho Code. (4-5-00)(____)

263. -- 264. (RESERVED).

265. PROGRAMS AND SERVICES AVAILABLE.

The facility detention center shall have written policies and procedures which govern what programs and services will be available to juveniles offenders, subject to the limitations necessary to maintain facility detention center security and order. These programs and services shall include, at a minimum, access or referral to counseling, religious services on a voluntary basis, one (1) hour per day and five (5) days per week of large muscle exercise and passive recreational activities, regular and systematic access to reading material, juvenile work assignments and educational programs according to the promulgated rules of the Idaho State Department of Education, except where there is justification for restricting a juvenile's offender's participation. Any denial of services must be documented. (4-5-00)(____)

~~266. -- 269. (RESERVED).~~

~~270. REQUIREMENTS FOR EXISTING BUILDINGS BEING USED FOR JUVENILE DETENTION CENTER.~~

~~**01. Applicability.** Rules in this section shall apply to all facilities for which construction was initiated and/or completed before October 1, 1998. (4-5-00)~~

~~**02. Code Compliance.** In addition to these rules, existing facilities shall comply with applicable Americans with Disabilities Act (ADA) building, health, and safety codes of the local authority and the requirements of the State Fire Marshal. Rules herein which exceed code requirements of the local authority shall take precedence. (4-5-00)~~

~~**03. General Conditions.** All existing juvenile detention facilities shall conform to the following general conditions: (4-5-00)~~

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~~a. Artificial lighting. Light levels in all areas shall be appropriate for the use and type of activities which occur. Night lighting levels shall permit adequate illumination for supervision. (4-5-00)~~

~~b. Natural light. All living areas shall provide visual access to natural light. (4-5-00)~~

~~c. Heating, cooling and ventilation systems. HVAC systems shall be designed to provide that temperatures in indoor living and work areas are appropriate to summer and winter comfort zones, and healthful and comfortable living and working conditions exist in the facility. (4-5-00)~~

~~d. Security hardware. All locks, detention hardware, fixtures, furnishings, and equipment shall have the proper security value for the areas in which they are used. The use of padlocks in place of security locks on sleeping room or housing unit doors is prohibited. (4-5-00)~~

~~04. Admission and Release Area. The facility shall have an intake and release area which should be located within a secure perimeter, but apart from other living and activity areas. Adequate space shall be allocated for, but not limited to, reception, booking and identification, search, shower and clothing exchange, medical screening, storage of juvenile's personal property and facility clothing, telephone calls, interviews, release screening and processing, and temporary holding rooms designed to detain juveniles for up to eight (8) hours pending booking, court appearance, housing assignment, transfer, or release. Temporary holding rooms may be designed for multiple occupancy and shall provide at least twenty-five (25) square feet of floor space for each juvenile at capacity, but shall be no smaller than fifty (50) square feet. Temporary holding rooms shall have access to a toilet and wash basin with hot and cold water. (4-5-00)~~

~~05. Single Occupancy Rooms. Single occupancy sleeping rooms or cells shall have a minimum of thirty-five (35) square feet of unencumbered space and shall be equipped with at least a bed above the floor. (4-5-00)~~

~~06. Multiple Occupancy Rooms. Multiple occupancy sleeping rooms or cells shall have at least thirty-five (35) square feet of unencumbered floor space per occupant at the room's rated capacity and shall be equipped with at least a bed above the floor for each occupant. (4-5-00)~~

~~07. Sanitation and Seating. All single or multiple occupancy sleeping rooms or cells shall be equipped and/or provide access to a toilet, wash basin with hot and cold running water, and drinking water at the following ratios: at least one (1) shower and one (1) toilet for every eight (8) juveniles, or fraction thereof, wash basin with hot and cold water for every twelve (12) juveniles, or fraction thereof, and tables and sufficient seating for all juveniles for the maximum number expected to use the room at one (1) time. (4-5-00)~~

~~08. Day Room/Multi-Purpose Room. The facility shall have at least one (1) day room/multi-purpose room which provides a minimum of thirty-five (35) square feet of floor space per occupant for the maximum number expected to use the room at one (1) time. (4-5-00)~~

~~09. Program Space. Adequate space shall be allocated for, but not limited to,~~

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~~educational programs, individual and group activities, exercise and recreation, visitation, confidential attorney and clergy interviews, and counseling.~~ (4-5-00)

~~10. Outdoor Exercise Space.~~ The facility should have a secure outdoor recreation area large enough to ensure that each juvenile is offered at least one (1) hour of access daily. (4-5-00)

~~11. Administration Space.~~ Adequate space shall be provided for administrative, security, professional and clerical staff. This space includes conference rooms, storage rooms for records, medical services, a public lobby, and toilet facilities. (4-5-00)

~~12. Handicapped Access.~~ All parts of the facility that are accessible to the public shall be accessible to, and usable by, persons with disabilities in compliance with ADA standards. (4-5-00)

~~13. Perimeter Security.~~ The perimeter is secured in a way which provides that juveniles remain within the perimeter and that access by the general public is denied without proper authorization. (4-5-00)

~~27166.~~ -- 274. (RESERVED).

275. ~~NEW FACILITY~~ DETENTION CENTER DESIGN, RENOVATION, AND CONSTRUCTION.

01. Applicability. All standards in this section, except where exceptions are stated, shall apply to new juvenile detention ~~facilities and centers~~, renovation of existing juvenile detention ~~facilities~~ centers, and renovation of any existing building for use as a juvenile detention center for which construction ~~is~~ was initiated after October 1, 1998. In the case of a partial renovation of an existing ~~facility~~ detention center, it is intended that these rules should apply only to the part of the ~~facility~~ detention center being added or renovated. (4-5-00)(____)

02. Code Compliance. In addition to these rules, all new construction and renovation shall comply with the applicable ADA, building, safety, and health codes of the local authority and the applicable requirements of the State Fire Marshal, and state law. Standards herein which exceed those of the local authority shall take precedence. (4-5-00)

03. Site Selection. ~~New facilities~~ Juvenile detention centers should be located to facilitate access to community resources and juvenile justice agencies. If the ~~facility~~ detention center is located on the grounds or in a building with any other correctional facility, it shall be constructed as a separate, self-contained unit in compliance with Title 20, Chapter 5, Section 20-518, Idaho Code. (4-5-00)(____)

04. General Conditions. All newly constructed or renovated juvenile detention ~~facilities~~ centers shall conform to the following general conditions: (4-5-00)(____)

a. ~~Artificial light.~~ Light levels in all housing areas shall be appropriate for the use and type of activities which occur. Night lighting shall permit adequate illumination for supervision; (4-5-00)(____)

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b. ~~Natural light. In all new construction, all~~ All living areas shall provide visual access to natural light; (4-5-00)(____)

c. ~~Heating, cooling and ventilation systems.~~ HVAC systems shall be designed to provide that temperatures in indoor living and work areas are appropriate to the summer and winter comfort zones, and healthful and comfortable living and working conditions exist in the ~~facility.~~ detention center; (4-5-00)(____)

d. ~~Detention hardware.~~ All locks, detention hardware, fixtures, furnishings, and equipment shall have the proper security value for the areas in which they are used. The use of padlocks in place of security locks on sleeping room or housing unit doors is prohibited; (4-5-00)(____)

e. ~~Privacy screening.~~ Juveniles' offenders' rights to privacy from unauthorized or degrading observation shall be protected without compromising the security and control of the ~~facility.~~ detention center. Privacy screening for all toilet and shower areas which still allows adequate supervision of those areas should be incorporated into the design; (4-5-00)(____)

f. ~~Perimeter security.~~ The ~~facility.~~ detention center shall have a perimeter which is secured in such a way that juveniles offenders remain within the perimeter and that access by the general public is denied without proper authorization; (4-5-00)(____)

g. ~~Electronic surveillance and communications systems.~~ The security area of the ~~facility.~~ detention center shall have an audio communication system equipped with monitors in each sleeping room and temporary holding room designed to allow monitoring of activities and to allow juveniles offenders to communicate emergency needs to ~~facility.~~ detention center employees. Closed circuit television should primarily be used to verify the identity of persons where direct vision is not possible. Closed circuit television shall not be used to routinely monitor the interior of sleeping rooms; and (4-5-00)(____)

h. ~~Emergency power.~~ All newly constructed ~~facilities or renovated~~ detention centers shall provide an emergency source of power to supply electricity for entrance lighting, exit signs, circulation corridors, fire alarm, electrically operated locks and the heating and ventilation system. (4-5-00)(____)

05. **Admission and Release Area.** The ~~facility.~~ detention center shall have an intake and release area which should be located within the security perimeter, but apart from other living and activity areas. (____)

a. Adequate space shall be allocated for, at least but not limited to; (____)

i. Reception; (____)

ii. Booking ~~and identification~~; (____)

iii. Search; (____)

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- iv. Shower and clothing exchange; ()
- v. Medical screening; ()
- vi. Storage of juvenile's offender's personal property and ~~facility~~ detention center clothing; ()
- vii. Telephone calls; ()
- viii. Interviews; and ()
- ix. Release screening and processing ~~and temporary~~. ()

b. If a detention center has temporary holding rooms, the rooms may be designed to detain juveniles offenders for up to eight (8) hours pending booking, court appearance, housing assignment, transfer, or release. Temporary holding rooms may be designed for multiple occupancy and shall provide ~~at least twenty~~ thirty-five (235) square feet of unencumbered floor space for each juvenile offender at capacity; ~~but shall be no smaller than fifty (50) square feet.~~ ()

c. Temporary holding rooms shall have access to a toilet and wash basin with hot and cold water. ~~(4-5-00)~~()

06. Single Occupancy Rooms. Single occupancy sleeping rooms or cells shall have a minimum of thirty-five (35) square feet of unencumbered space and shall be equipped with at least a bed above the floor. (4-5-00)

07. Multiple Occupancy Rooms. Multiple occupancy sleeping rooms or cells shall have at least thirty-five (35) square feet of unencumbered floor space per ~~occupant~~ juvenile offender at the room's rated capacity and shall be equipped with at least a bed off the floor for each ~~occupant~~ juvenile offender. ~~(4-5-00)~~()

08. Sanitation and Seating. All single or multiple occupancy sleeping rooms shall be equipped with, or have twenty-four (24) hours per day access without detention center staff assistance to toilets, wash basins with hot and cold running water, and drinking water at the following ratios: ()

a. One (1) shower and one (1) toilet for every eight (8) juveniles offenders or fraction thereof; ()

b. One (1) wash basin with hot and cold water for every twelve (12) juveniles offenders or a fraction thereof; and ()

c. Tables and seating sufficient for the maximum number expected to use the room at one (1) time. ~~(4-5-00)~~()

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09. Day Room/ and Multi-Purpose Room. The ~~facility~~ detention center shall have at least one (1) day room/ and multi-purpose room which provides a minimum of thirty-five (35) square feet of floor space per ~~occupant~~ juvenile offender for the maximum number expected to use the room at one (1) time. (4-5-00)()

10. Program Space. Adequate space shall be allocated for, but not limited to: ()

a. Educational programs; ()

b. Individual and group activities; ()

c. Exercise and recreation, indoor and outdoor; ()

d. Visitation; ()

e. Confidential attorney and clergy interviews; and ()

f. Counseling. (4-5-00)()

11. Interview Space. A sufficient number of confidential interview areas to accommodate the projected demand of visits by attorneys, counselors, clergy, or other officials shall be provided. At least one (1) confidential interview area is required. (4-5-00)

~~**12. Outdoor Exercise Space.** The facility should have a secure outdoor recreation area.~~ (4-5-00)

132. Medical Service Space. Space shall be provided for routine medical examinations, emergency first-aid, emergency equipment storage, and secure medicine storage. (4-5-00)

~~**143. Food Service.** Where food is to be prepared in-house, the~~ The kitchen or food service area shall have sufficient space for food preparation, serving, disposal, and clean-up to serve the ~~facility~~ detention center at its projected capacity. The kitchen or food service area shall be properly equipped and have adequate storage space for the quantity of food prepared and served. (4-5-00)()

~~**154. Laundry.** Where laundry services are provided in-house, there shall be sufficient space available for heavy duty or commercial type washers, dryers, soiled laundry storage, clean laundry storage, and laundry supply storage.~~ (4-5-00)

~~**165. Janitor's Closet.** At least one (1) secure janitor's closet containing a mop sink and sufficient space for storage of cleaning supplies and equipment shall be provided within the security perimeter of the ~~facility~~ detention center.~~ (4-5-00)()

~~**176. Security Equipment Storage.** A secure storage area shall be provided for all chemical agents, weapons, and security equipment.~~ (4-5-00)

~~**187. Administration Space.** Adequate space shall be provided which includes but is~~

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not limited to, administrative, security, professional and clerical staff, offices, conference rooms, storage rooms, a public lobby, and toilet facilities. (4-5-00)

198. Public Lobby. A public lobby or waiting area shall be provided which includes sufficient seating and toilets. Public access to security and administrative work areas shall be restricted. All parts of the ~~facility~~ detention center that are accessible to the public shall be accessible to, and usable by, persons with disabilities in compliance with ADA standards.

(~~4-5-00~~)(____)

276. -- 999. (RESERVED).

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IDAPA 11 - IDAHO STATE POLICE

11.05.01 - RULES GOVERNING ALCOHOL BEVERAGE CONTROL

DOCKET NO. 11-0501-0601

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2007 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 23-932, 23-946(b), 23-1330 and 23-1408, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 4, 2006 Idaho Administrative Bulletin, Vol. 06-10, pages 126 through 132.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Lieutenant Bob Clements, Idaho State Police Alcohol Beverage Control, (208) 884-7060 or Robert.Clements@isp.idaho.gov.

DATED this 27th day of October, 2006.

THIS NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 23-932, 23-946(b), 23-1330 and 23-1408, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 6, 2006.

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The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Rules governing display of licenses need to be added and/or changed to provide licensees with a specific period of time following loss or move of a licensed premise, in which to secure and occupy a new premise and display the alcohol beverage license. Definitions are added to clarify vague or conflicting references in Idaho Code, and some sections are updated to reflect changes in licensing practices.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because associations representing affected parties were consulted in the drafting of these rules changes.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Lieutenant Bob Clements, Idaho State Police Alcohol Beverage Control, (208) 884-7060 or Robert.Clements@isp.idaho.gov.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 13, 2006.

DATED this 16th day of August, 2006.

Colonel R. Dan Charboneau, Director
Idaho State Police
700 W. Stratford Drive
P.O. Box 700, Meridian, ID 83680-0700
(208) 884-7000 / (208) 884-7090 fax

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

000. LEGAL AUTHORITY.

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The Director of the ~~Department of Law Enforcement~~ Idaho State Police has general rulemaking authority to prescribe rules and regulations for alcohol beverage enforcement, pursuant to Sections 23-932, 23-946(b), 23-1330 and 23-1408, Idaho Code. ~~(1-1-94)~~(____)

(BREAK IN CONTINUITY OF SECTIONS)

003. ADMINISTRATIVE APPEALS.

Administrative appeals under this chapter ~~shall be~~ are governed by the rules of administrative procedure of the Attorney General, IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General." ~~(2-20-01)~~(____)

004. MAILING ADDRESS AND OFFICE HOURS.

The mailing address is Idaho State Police, Bureau of Alcohol Beverage Control, P.O. Box 700, Meridian, ID 83680-0700. ~~Office~~ Lobby hours are Monday through Friday, 8 a.m. to ~~5~~ 4:30 p.m. ~~(2-20-01)~~(____)

(BREAK IN CONTINUITY OF SECTIONS)

010. DEFINITIONS.

01. Licensee. Any person who has received a license from the Director under any of the provisions of Title 23, Chapters 9, 10 or 13, Idaho Code. (7-1-93)

02. Licensed Premises. Any premises for which a license has been issued under any of the provisions of Title 23, Chapters 9, 10 or 13, Idaho Code. All areas included on the floor plan submitted to the Director with the licensee's application for a license ~~shall~~ constitute the licensed premises. In the event of loss or move of the physical licensed premises, the licensee has ninety (90) days to secure and occupy a new premises in which to display the license. All licenses must be prominently displayed in a suitable premises and remain in actual use by the licensee and available for legitimate sales of alcoholic beverages by the drink. An additional sixty (60) days may be granted by the Director, upon petition by the license holder. ~~(3-20-04)~~(____)

03. Multipurpose Arena. For the purposes of Section 23-944(3), Idaho Code, a multipurpose arena is defined as a premises with permanent and securely fastened spectator type seating of a minimum capacity of one thousand (1,000), encompassing a stage or arena which sole purpose is for community events or sports competition. (____)

034. New Licenses. For purposes of Section 23-908(4), Idaho Code, a "new license" is one that has become available as an additional license within a city's limits under the quota system after July 1, 1980. The requirement of Section 23-908(4), Idaho Code, that a new license be placed into actual use by the licensee and remain in use for at least six (6) consecutive months ~~shall be~~ is satisfied if the licensee makes actual sales of liquor by the drink during at least eight (8)

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hours per day, no fewer than six (6) days per week.

~~(1-1-94)~~()

05. Partition. A partition, as used in Section 23-944 Idaho Code, is defined as a structure separating the place from the remainder of the premises. Access through the structure to the place will be controlled to prevent minors from entering the place. The structure must be:

()

a. Permanently fixed from the premises ceiling to the premises floor. ()

b. Made or constructed of solid material such as glass, wood, metal or a combination of those products. ()

c. Designed to prevent an alcoholic beverage from being passed over, under or through the structure. ()

d. All partitions must be approved by the Director. ()

06. Place. For the purposes of Section 23-943, Idaho Code, "Place" as defined by Section 23-942(b), for a one (1) room restaurant without a barrier or partition, refers to the immediate bar area wherein there is seating alongside a counter or barrier that encloses bar supplies and equipment that are kept, and where alcoholic beverages are mixed, poured, drawn or served for consumption. ()

047. Restaurant. The term Restaurant, as defined by Section 23-942(c), Idaho Code, is further defined as an establishment maintained, advertised and held out to the public as primarily a food eating establishment, where individually priced meals are prepared and regularly served to the public, primarily for on-premises consumption. The establishment must also have a dining room or rooms, kitchen and cooking facilities for the preparation of food, and the number, and type of employees normally used in the preparing, cooking and serving of meals. Primarily as defined for the purposes of Section 010, also includes that the licensee must show to the director the following: ~~(3-20-04)~~()

a. An established menu identifying the individually priced meals for consumption; (3-20-04)

b. Food service and preparation occurs on the premises by establishment employees; (3-20-04)

c. Stoves, ovens, refrigeration equipment or such other equipment usually and normally found in restaurants are located on the premises of the establishment; (3-20-04)

d. The licensee must demonstrate to the satisfaction of the Director, through appropriate business records, that the establishment is advertised and held out to the public as primarily a food eating establishment, or that at least forty percent (40%) of the establishments consumable purchases are derived from purchases of food and non- alcoholic beverages. (3-20-04)

058. Stock Transfer. For the purposes of Section 23-908, Idaho Code, the sale or

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exchange of stock in a closely held corporation holding a license ~~shall be~~ is deemed a transfer of the license. However, the sale or exchange of shares in a family corporation among family members, ~~shall~~ is not ~~be deemed~~ a transfer. (3-13-02)()

011. GENERAL PROVISIONS.

01. Repeal of Prior Rules. The Director intends to promulgate a uniform and consistent set of alcoholic beverage rules. Accordingly, all rules adopted before the effective date of this chapter (Sections 000 through 021), which concern or involve the licensing of alcoholic beverages, specifically rules 1-L; 2-L; 3-L; 4-L; 6-L; 10-L; 11-L; 1-B; 2-B; 3-B; 5-B; 6-B; 7-B; 9-B; 11.05.A,1.0; 11.05.A,1.1; and 11.05.A,1.2, are hereby repealed and declared null and void. (7-1-93)

02. Delegation of Authority to License Alcoholic Beverages. The Director hereby delegates his authority for the licensing of establishments which sell alcoholic beverages, as contained in Title 23, Chapters 9, 10, and 13, Idaho Code, to the, Alcohol Beverage Control Bureau, Idaho State Police. All applications and inquiries concerning alcoholic beverage licenses must be directed to the Alcohol Beverage Control Bureau at P.O. Box 700, Meridian, Idaho 83680. The Alcohol Beverage Control Bureau ~~shall~~ provides forms for all applications and inquiries. ~~Provided, however, that~~ Nothing contained herein shall interfere with the Director's supervisory authority for alcoholic beverage licensing. (Section 67-2901(4), Idaho Code). (3-31-95)()

03. Authority to Stagger the Renewal of Licenses to Sell Alcohol. For the purposes of Sections 23-908, 23-1010 and 23-1316, Idaho Code, the Director may adjust the renewal month to accommodate population increases. The following table sets out the notification months and renewal months established to renew licenses to sell alcohol:

Renewal Notices	County	Renewal Month
January	Kootenai	1-Mar
January	Benewah	1-Mar
February	Ada	1-May
March	Ada	1-May
April	Canyon	1-Jun
April	Owyhee	1-Jun
April	Payette	1-Jun
May	Twin Falls	1-Jul
May	Gooding	1-Jul
May	Camas	1-Jul
May	Lincoln	1-Jul
May	Jerome	1-Jul
June	Cassia	1-Aug

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Renewal Notices	County	Renewal Month
June	Minidoka	1-Aug
June	Butte	1-Aug
June	Blaine	1-Aug
June	Power	1-Aug
July	Lemhi	1-Sep
July	Custer	1-Sep
July	Boise	1-Sep
July	Valley	1-Sep
August	Elmore	1-Oct
August	Clark	1-Oct
August	Fremont	1-Oct
August	Jefferson	1-Oct
August	Madison	1-Oct
August	Teton	1-Oct
August	Bonneville	1-Oct
September	Bingham	1-Nov
September	Bannock	1-Nov
September	Caribou	1-Nov
September	Oneida	1-Nov
September	Franklin	1-Nov
September	Bear Lake	1-Nov
October	Boundary	1-Dec
October	Bonner	1-Dec
October	Shoshone	1-Dec
November	Adams	1-Jan
November	Gem	1-Jan
November	Washington	1-Jan
December	Latah	1-Feb
December	Nez Perce	1-Feb
December	Idaho	1-Feb
December	Lewis	1-Feb
December	Clearwater	1-Feb
Renewal Notices	Certs of Approval	Renewal Month
November	Out of State	1-Jan

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(5-3-03)

012. TRANSFER OF ALCOHOLIC BEVERAGE LICENSES.

01. Transfer of License Subject to Sanctions. The Director of the Idaho State Police may deny the transfer of an alcoholic beverage license which is subject to possible disqualification, revocation or suspension under the provisions of Title 23, Chapters 9, 10, and 13, Idaho Code, or these rules, when an action has been filed to such effect before the Idaho State Police pursuant to Sections 23-933, 23-1037 or 23-1331, Idaho Code. (7-1-93)

02. Death or Incapacity of Licensee. In the event of the incapacity, death, receivership, bankruptcy, or assignment for the benefit of creditors of a licensee, his guardian, executor, administrator, receiver, trustee in bankruptcy, or assignee for benefit of creditors may, upon written authorization from the Alcohol Beverage Control Bureau, continue the business of the licensee on the licensed premises for the duration of the license or until the business is terminated. Any person operating the licensed premises under this regulation must submit a signed agreement that he will assume all of the responsibilities of the licensee for operation of the premises in accordance with law. A person operating licensed premises under the regulation must demonstrate to the satisfaction of the Alcohol Beverage Control Bureau that he is qualified to hold an alcoholic beverage license. A guardian, executor, administrator, receiver, trustee in bankruptcy, or assignee for benefit of creditors may renew or transfer a license so held, in the same manner as other licensees, subject to the approval of the Alcohol Beverage Control Bureau. (Sections 23-908(1), 23-1005A, and 23-1317, Idaho Code). (3-31-95)

03. Authorization to Transfer and Assignment of Privilege to Renew. Any person applying to renew a liquor license who was not the licensee at the applicable premises for the preceding year, must submit with the application to renew, a written Authorization to Transfer and Assignment of Privilege to Renew signed by the current licensee. (7-1-93)

04. Temporary Permits. When application for transfer of an alcoholic beverage license has been made, the Alcohol Beverage Control Bureau, in its discretion, may authorize issuance of a temporary permit during the review of the application, during which time the applicant for transfer may conduct business as a temporary permit holder. The permit holder, in accepting the temporary permit, ~~shall be~~ is responsible for complying with all statutes and rules pertinent to the sale of alcoholic beverages. Sanctions against such permit holder, whether civil, administrative, or criminal ~~shall~~ lies with the permittee, and acceptance of the permit ~~shall~~ constitutes a waiver of any defenses by permit holder based upon the fact that the permit holder is not, technically, a licensee. The Alcohol Beverage Control Bureau may withdraw a temporary permit it has issued pursuant to this rule at any time without hearing or notice. ~~(3-31-95)~~(____)

05. Product Replacement and Credit. Any beer or wine products removed from the licensed retailer's premises by a wholesaler/distributor for quality control or public health ~~shall~~ are not be considered to be a violation of Section 23-1033 or 23-1325, Idaho Code, which prohibit aid to the retailer or of Sections 23-1031 or 23-1326, Idaho Code, which prohibit extension of credit to a retailer, if: ~~(8-1-95)~~(____)

- a. The packages or kegs are replaced with identical product and quantity; or (8-1-95)

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b. In the instance of replacement of a partial keg of beer or wine, a credit to be redeemed on subsequent alcoholic beverage purchases by the retailer is given for the value of the unused portion ~~which shall be redeemed on subsequent alcoholic beverage purchases by the retailer~~; or (8-1-95)(____)

c. In the instance of removal of product for which the identical product or quantity thereof is not immediately available to the wholesaler/distributor at the time of removal of the product, a credit is given. The credit shall be redeemed on subsequent alcoholic beverage purchases by the retailer; or (8-1-95)

d. In the case of a licensed establishment which is in operation no less than two (2) months and no more than nine (9) months of each year, prior to its period of closure, it is apparent that product will become outdated or spoiled before the date of re-opening, a wholesaler/distributor may remove product from the retailer's premises and may give a credit to the retailer. Such credit shall be redeemed on subsequent alcoholic beverage purchases by the same retailer. (8-1-95)

e. Credit is given to a retailer ~~as authorized herein, shall be given~~ for the amount paid by the retailer at the time of purchase of the product being removed by the wholesaler/distributor. (8-1-95)(____)

06. Expiration of Licenses. When a county has, pursuant to Sections 23-927 and/or 23-1012, Idaho Code, passed an ordinance extending the hours of sale of liquor and/or beer to two o'clock a.m. (2:00 a.m.), all liquor and/or beer licenses in that county ~~shall~~ expire at two ~~o'clock~~ a.m. (2:00 a.m.), on ~~January 1st~~ the first of the month of the year following their issuance. (Section 23-908(1), Idaho Code). (7-1-93)(____)

07. Maintenance of Keg Receipts. ~~A~~ Licensees shall retain a copy of all completed keg receipts required by Section 23-1018, Idaho Code, for a period of six (6) months. (7-1-93)(____)

013. PRIORITY LISTS.

01. Priority Lists for Incorporated City Liquor Licenses. The Alcohol Beverage Control Bureau ~~shall~~ maintains a priority list of applicants for those cities in which no incorporated city liquor license is available. A separate list ~~shall be~~ is maintained for each city. A person, partnership, or corporation desiring to be placed on a priority list shall file a completed application for an incorporated city liquor license, accompanied by payment of one-half (1/2) of the annual license fee. Such application need not show any particular building or premises upon which the liquor is to be sold, nor that the applicant is the holder of any license to sell beer. Priority on the list ~~shall be~~ is determined by the earliest application, each succeeding application ~~shall be~~ is placed on the list in the order received. (3-31-95)(____)

02. Written Notification. When an incorporated city liquor license becomes available Alcohol Beverage Control ~~shall~~ offers it in writing to the applicant whose name appears first on the priority list. If the applicant does not notify the Alcohol Beverage Control Bureau in writing within ten (10) days of receipt of the notice of his intention to accept the license, the license ~~shall be~~ is offered to the next applicant in priority. An applicant accepting the license shall have a

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period of ~~ninety~~ one hundred eighty (9180) days from the date of receipt of Notice of License Availability in which to complete all requirements necessary for the issuance of the license. Provided, however, that upon a showing of good cause the Director of the Idaho State Police may extend the time period in which to complete the necessary requirements for a period not to exceed ~~sixty~~ ninety (690) days. (3-31-95)(____)

03. Refusal to Accept Offer of License or Failure to Complete Application for License. An applicant refusing a license offered under this rule or an applicant who fails to complete his application may have his name placed at the ~~bottom end~~ of the priority list upon his request. Should the applicant holding first priority refuse or fail to accept the license or to complete the application within the time specified, the applicant shall be dropped from the priority list, the deposit refunded, and the license offered to the applicant appearing next on the list. (7-1-93)(____)

04. Limitations on Priority Lists. An applicant shall hold only one position at a time on each incorporated city priority list. An applicant must be able to demonstrate to the Director the ability to place an awarded license into actual use as required by Section 23-908(4), Idaho Code and these rules. An applicant for a place on an incorporated city liquor license priority list may not execute an inter vivos transfer or assignment of his place on the priority lists. For the purposes of this rule, "inter vivos transfer or assignment" ~~shall~~ means the substitution of any individual; partnership; corporation, including a wholly owned corporation; organization; association; or any other entity for the original applicant on the waiting list. An attempt to assign inter vivos a place on an incorporated city liquor license priority list shall result in the removal of the name of the applicant from the lists. An applicant, however, may assign his or her place on an alcoholic liquor license priority list by devise or bequest in a valid will. A place on an incorporated city liquor license priority list becomes part of an applicant's estate upon his or her death. (7-1-93)(____)

05. Priority Lists Where Licenses Are Available. The Alcohol Beverage Control Bureau shall not maintain a list for a city in which a liquor license is available, nor for a city that does not permit retail sale of liquor. If, prior to the promulgation of this rule, the Alcohol Beverage Control Bureau has maintained a priority list for any such city, the list shall be abolished and all license fees returned to the respective applicants. (3-31-95)

014. CONDUCT OF LICENSED PREMISES.

Upon request of an agent of the Director, a licensee, or anyone acting on his behalf, ~~shall~~ must produce any records required to be kept pursuant to Title 23, Chapters 9, 10, or 13, Idaho Code, and ~~shall~~ permit the agent of the Director or peace officer to examine them and ~~shall~~ permit an inspection of the licensee's premises. Upon request of a peace officer, a licensee, or anyone acting on his behalf, ~~shall~~ must permit an inspection of the licensee's premises. Any inspection performed pursuant to this rule ~~shall~~ must occur during the licensee's regular and usual business hours. The failure to produce such records or to permit such inspection on the part of any licensee ~~shall be~~ is a violation of this rule. A violation of this rule, federal or state law or local code or ordinance may subject the licensee to administrative sanctions pursuant to Sections 23-933, 23-1037 and 23-1331, Idaho Code. (7-1-93)(____)

015. -- 020. (RESERVED).

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IDAHO STATE POLICE
Rules Governing Alcohol Beverage Control

Docket No. 11-0501-0601
PENDING RULE

021. AGE RESTRICTION REQUIREMENTS.

01. Over/Under Clubs. Minors shall not enter, remain or loiter in any licensed establishment that sells alcohol by the drink except for those premises listed in Section 23-944, Idaho Code. ()

02. Posting of Age Restriction Signs. Sections 23-945 and 23-1026, Idaho Code, require every alcoholic beverage licensee to post an age restriction sign. Such sign ~~shall~~ must contain the following words in lettering of at least one (1) inch in height: "Admittance of persons under twenty-one (21) years of age prohibited by law." Such sign ~~shall~~ must be placed conspicuously over or on the door of each entrance to the licensed premises and must be clearly visible from the exterior approached to such premises. (7-1-93)()

03. Counterfeit or Altered Age Documents. If alcoholic beverage licensees, their employees, or agents ~~confiscate~~ receive age identification documents ~~that appear to be mutilated, altered, or fraudulent~~ which have been lost or voluntarily surrendered, they shall deliver ~~them~~ the documents to an agent or investigator of the Alcohol Beverage Control Bureau or to other law enforcement officials within fifteen (15) days from the date they were received, found or voluntarily surrenders. When identification documents that appear to be mutilated, altered or fraudulent are presented to a licensee, their employees or agents, they must contact law enforcement and/or refuse service. (3-31-95)()

SENATE JUDICIARY & RULES COMMITTEE

IDAPA 11 - IDAHO STATE POLICE

11.11.01 - RULES OF THE IDAHO PEACE OFFICER STANDARDS AND TRAINING COUNCIL

DOCKET NO. 11-1101-0601

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2007 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 19-5107, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 4, 2006 Idaho Administrative Bulletin, Vol. 06-10, pages 140 through 149.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:
N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Trish Christy at (208) 884-7253.

DATED this 26th day of October, 2006.

THIS NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 19-5107, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 18, 2006.

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Rules of the POST Council**

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The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Adds definitions for “Correction Officer” and “Adult Probation and Parole Officer;” adds Correction Officers and Adult Probation and Parole Officers to the definition of law enforcement profession as it pertains to the two-year agreement so people working in those capacities get credit for time served; allows students attending the vocational law enforcement programs to be eligible for waivers for “uncharacterized” or “general under honorable conditions” discharges from military service; amends language to reflect changes made to Idaho Code 19-5109 during last legislative session; adds language to prevent decertified officers from obtaining future POST certification with the exception of Correction Officers; adds the Law Enforcement Code of Ethics to the rules; clarifies that peace officer, county detention officer, and communications specialist experience must be with a duly authorized law enforcement agency in order to count toward peace officer and detention officer certification; gives the POST Executive Director the authority to waive minor hearing deficiencies; gives the POST Executive Director the authority to waive “uncharacterized” and “general under honorable conditions” military discharges; clarifies the qualifications for the Supervisor certificate; and establishes the POST Hearing Board.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because representatives of the affected parties were involved in the drafting of the rule.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Trish Christy at (208) 884-7253.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 25, 2006.

DATED this 22nd day of August, 2006.

Douglas L. Graves
Acting Executive Director

SENATE JUDICIARY & RULES COMMITTEE

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PENDING RULE**

Idaho State Police/Peace Officer Standards and Training Council
700 S. Stratford Dr.
P.O. Box 700
Meridian, ID 83680-0700
(208) 884-7049/(208) 884-7295 (FAX)

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

010. DEFINITIONS.

01. Act. Title 19, Chapter 51, of the Idaho Code. (4-5-00)

02. Adult Probation and Parole Officer. Any employee of the Idaho Department of Correction who is responsible for the supervision of offenders on probation or parole. ()

023. Agency. A law enforcement agency which is a part of or administered by the state or any political subdivision thereof and which is responsible for the prevention and detection of crime and the enforcement of penal, traffic or highway laws of this state or any political subdivision. (4-5-00)

034. Agency Head. A chief of police of a city, sheriff of a county, or chief administrator of any law enforcement agency of the state of Idaho or any political subdivision thereof who is responsible for the prevention and detection of crime and the enforcement of penal, traffic or highway laws of this state or any political subdivision. (4-5-00)

045. College Credit. A unit of work towards a baccalaureate or vocational degree accepted by a college or university of higher education accredited by the Northwest Association of Schools and Colleges or other equivalent accrediting agency. (7-1-93)

06. Correction Officer. Any employee of an Idaho Department of Correction facility or private prison contractor of the State Board of Correction who is responsible for the first-line supervision, security, protection, and risk reduction of offenders housed in the correction facility. ()

057. County Detention Officer. An employee in a county jail who is responsible for the safety, care, protection, and monitoring of county jail inmates. (4-5-00)

068. Crime of Deceit. Any offense described in Section 18-1301 et seq., Idaho Code, (Bribery), Section 18-1401 et seq. (Burglary), Sections 18-1901 (Fictitious Stock Subscription), 18-1902 (Exhibition of False Papers to Public Officers), 18-1903 (Use of False Name in Prospectus), 18-1904 (Illegal Dividends and Reductions of Capital), 18-1905 (Falsification of Corporate Books), 18-1906 (Fraudulent Reports by Officers), 18-2202(1) (Computer Crime), 18-2302 (False Swearing as to Qualifications as Voter), 18-2304 (Procuring Illegal Votes), 18-2305 (Intimidation, Corruption and Frauds), 18-2306 (Illegal Voting or Interference with Election), 18-2307 (Attempting to Vote When Not Qualified or to Repeat Voting), 18-2309 (Officers Attempting to Change Result), 18-2310 (Forging or Counterfeiting Returns), 18-2311 (Adding to

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or Subtracting From Votes), 18-2316 (Tampering with Certificates of Nomination or Ballots), 18-2320 (Bribery of Electors), Section 18-2401 et seq. (Theft), Section 18-2601 et seq. (Falsifying Evidence -- Offering Forged or Fraudulent Documents in Evidence), Section 18-2701 et seq. (Bribery of Executive Officers), Sections 18-3105 (False Statement by Commission Merchant, Broker, Agent, Factor or Consignee to Principal or Consignor), 18-3106 (Drawing Check Without Funds -- Drawing Check With Insufficient Funds -- Prima Facie Evidence of Intent -- Standing of Person Having Acquired Rights -- Probation Conditions), 18-3123 (Forgery of a Financial Transaction Card), 18-3124 (Fraudulent Use of a Financial Transaction Card), 18-3125 (Criminal Possession of Financial Transaction Card and FTC Forgery Devices), 18-3125A (Unauthorized Factoring of Credit Card Sales Drafts), 18-3126 (Misappropriation of Personal Identifying Information), 18-3127 (Receiving or Possessing Fraudulently Obtained Goods or Services), 18-3201 (Officer Stealing, Mutilating or Falsifying Public Records), 18-3202 (Private Person Stealing, Mutilating or Falsifying Public Records), 18-3203 (Offering False or Forged Instrument for Record), 18-3204 (False Certificates or Other Instruments from Officers), 18-3206 (Mutilating Written Instruments), Section 18-3601 et seq. (Forgery), Sections 18-4616 (Defacing Marks on Logs or Lumber), 18-4617 (Stealing Rides on Trains), 18-4621 (Stealing Electric Current -- Tampering with Meters), 18-4622 (Stealing Electric Current -- Accessories Liable as Principals), 18-4624 (Taken or Converted Merchandise as Theft), 18-4626 (Wilful Concealment of Goods, Wares or Merchandise -- Defense for Detention), 18-4630 (Illegal Use of Documents), 18-4701 (Alteration of Bills), 18-4702 (Alteration of Enrolled Copies), 18-4703 (Offering Bribes to Legislators), 18-4704 (Legislators Receiving Bribes), Section 18-5401 et seq. (Perjury), Section 18-6501 et seq. (Robbery), Sections 18-8201 (Money Laundering and Illegal Investment -- Penalty -- Restitution), 41-293 (Insurance Fraud), 41-294 (Damage to or Destruction of Insured Property), 41-1306 (False Financial Statements), 49-228 (Receiving or Transferring Stolen Vehicles), 49-231 (Farm Implements -- Purchasing or Selling When Identifying Number Altered or Defaced a Felony), 49-232 (Fraudulent Removal or Alteration of Numbers Prohibited), 49-518 (Altering or Forging Certificate -- Stolen Cars -- Destroying or Altering Engine or Decal Number -- Use of Fictitious Name—Fraud), or any attempt, conspiracy or solicitation to commit any of the foregoing offenses, or any racketeering offense under Section 18-7801 et seq., Idaho Code, in which any of the foregoing offenses constitutes at least one (1) of the predicate acts, or any other crime defined in the Idaho Code involving any form of theft or including fraudulent intent as an element, or an offense equivalent to any of the foregoing in any other jurisdiction. (3-15-02)

079. Field Training. Training in which an individual receives formal instruction on the job for special and defined purposes. (7-1-93)

0810. Full Time. Employment of eighty (80) hours or more per month for ninety (90) consecutive calendar days. (7-1-93)

0911. High School. A school accredited as a high school by the Department of Education of the state in which the high school is located, or a school accredited as a high school by the recognized regional accreditation body, or a school accredited as a high school by the State University of the state in which the school is located. (7-1-93)

102. In-Service Training. Training designed to refresh or add to an individual's capabilities to do the task to which they are or may be assigned. (7-1-93)

143. Juvenile Detention Officer. Any employee of a juvenile detention center which is

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part of or administered by the county or any political subdivision thereof and who is responsible for the safety, care, protection, and monitoring of juvenile offenders held in the detention center. (3-15-02)

124. Juvenile Probation Officer. Any employee of a county juvenile probation department who is responsible for preparing social history reports to the court, making recommendations regarding conditions of probation and the supervision of juvenile offenders' compliance with court orders. (4-2-03)

135. Law Enforcement Profession. As used in agreements authorized pursuant to Section 19-5112, Idaho Code, means a peace officer whose duties include and primarily consist of the prevention and detection of crime and the enforcement of penal, traffic or highway laws of this state or any political subdivision; ~~or~~ an employee in a county jail who is responsible for the safety, care, protection, and monitoring of county jail inmates; an employee of an Idaho Department of Correction facility or private prison contractor of the State Board of Correction who is responsible for the first-line supervision, security, protection, and risk reduction of offenders housed in the correction facility; or an employee of the Idaho Department of Correction who is responsible for the supervision of offenders on probation or parole. (~~7-1-93~~)()

146. Manual. This book of Rules as adopted by the Idaho Peace Officer Standards and Training Council. (4-5-00)

157. Part Time. Employment of less than eighty (80) hours per month for ninety (90) consecutive calendar days. (7-1-93)

168. Peace Officer. Any employee of a police or law enforcement agency which is a part of or administered by the state or any political subdivision thereof and whose duties include and primarily consist of the prevention and detection of crime and the enforcement of penal, traffic or highway laws of this state or any political subdivision. "Peace officer" also means an employee of a police or law enforcement agency of a federally recognized Indian tribe who has satisfactorily completed the peace officer standards and training academy and has been deputized by a sheriff of a county or a chief of police of a city of the state of Idaho. (4-5-00)

179. POST. The Idaho Peace Officer Standards and Training Program. (7-1-93)

1820. Prosecutor. A city prosecuting attorney, city assistant prosecuting attorney, county prosecuting attorney, county deputy prosecuting attorney, attorney general, deputy attorney general, United States attorney, or assistant United States attorney. (4-2-03)

1921. Qualified Instructor. Any person certified by the Idaho POST Council as being competent to teach in a Council approved school. (7-1-93)

202. Reserve Peace Officer. An individual assigned by an agency to perform the duties of a peace officer who does not meet the definition of a full- or part-time peace officer. All reserve officers shall be under supervision as set forth in these rules. (4-2-03)

213. School. Any school, college, university, academy, or local training program which offers law enforcement training and includes within its meaning the combination of course

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curriculum, instructors and facilities, or any training session as certified by POST. (7-1-93)

224. School Director or Coordinator. An individual charged with the responsibility of conducting a training school under the provisions of the Act. (7-1-93)

235. Specification. A description of a requirement supplementing a section of the Rules. (7-1-93)

246. Temporary. Employment of less than ninety (90) consecutive calendar days. (7-1-93)

257. Trainee. An officer participating in any POST approved training program. (3-15-02)

(BREAK IN CONTINUITY OF SECTIONS)

031. HEARING BOARD.

The POST Council may appoint a Hearing Board to hear all matters appropriately brought before the POST Council for decision, pursuant to Chapter 51, Title 19. ()

01. Appointment of Members. The chairman of the POST Council shall appoint three members of the POST Council to serve on the Hearing Board. The Hearing Board shall consist of a city chief of police, a county sheriff, and an attorney. ()

02. Recommended and Final Orders. Orders issued by the Hearing Board at the conclusion of proceedings shall be considered recommended orders and will become final orders only after POST Council's review pursuant to Section 67-5244, Idaho Code, and IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General," Subsection 720.01. ()

03. Discovery. Pursuant to Section 19-5107, Idaho Code, and IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General," Sections 520 through 532, discovery may be conducted in contested cases before the Hearing Board and POST Council. ()

0342. -- 039. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

053. MILITARY RECORD.

A "dismissal," "bad conduct discharge" (BCD), "dishonorable discharge" (DD), or administrative discharge of other than honorable (OTH) from the military service will disqualify the applicant. The administrative discharge of "general under honorable conditions" (GEN), a "general" discharge, or an "uncharacterized" discharge may be grounds for rejection. In the case of a

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“general under honorable conditions” or “uncharacterized” discharge, the applicant may be accepted upon approval of the POST Executive Director. The Executive Director will have the discretion to refer the application to the POST Council. In the case of a “general” discharge, the POST Council will review the application and determine whether the individual will be certifiable as a peace, detention, juvenile detention, or juvenile probation officer in the state of Idaho.

(4-6-05)()

(BREAK IN CONTINUITY OF SECTIONS)

057. PHYSICAL - MEDICAL.

01. Requirements.

(7-1-93)

a. Hearing. The applicant must have unaided or aided hearing between zero (0) and twenty-five (25) decibels for each ear at the frequencies of five-hundred (500) Hz, one thousand (1000) Hz, two thousand (2000) Hz, and three thousand (3000) Hz. Waiver to the above may be considered ~~by the Council~~ if accompanied by an audiologist's or ear, nose, and throat physician's certification that the applicant's condition will not jeopardize or impair the applicant's ability to perform the duties of a peace, detention, juvenile detention, or juvenile probation officer. If the applicant's unaided or aided hearing is between twenty-six (26) and forty (40) decibels, the applicant may be accepted upon approval of the POST Executive Director. The Executive Director will have the discretion to refer the application to the POST Council. If the applicant's unaided or aided hearing is over forty (40) decibels, the POST Council will review the application and determine whether the individual will be certifiable as a peace, detention, juvenile detention, or juvenile probation officer in the state of Idaho.

(3-20-04)()

b. Vision.

(7-1-93)

i. The applicant must possess normal binocular coordination; depth of proficiency of a minimum of one (1) minute of arc at twenty (20) feet; peripheral vision must be binocularly two hundred (200) degrees laterally with sixty (60) degrees upward and seventy (70) degrees downward. There must be no pathology of the eye; applicant must possess a minimum seventy percent (70%) proficiency of the Dvorine or equivalent color discrimination test. Waiver to the above may be considered by the Council if accompanied by a vision specialist's certification that the applicant's condition will not jeopardize or impair the applicant's ability to perform the duties of a peace, detention, juvenile detention, or juvenile probation officer.

(3-20-04)

ii. The applicant must have uncorrected vision in each eye of no worse than twenty/two hundred (20/200) with the strong eye corrected to twenty/twenty (20/20) and the weaker eye corrected to twenty/sixty (20/60). An applicant who wears contact lenses is exempt from the uncorrected vision of twenty/two hundred (20/200), but must have the strong eye corrected to twenty/twenty (20/20) and the weaker eye corrected to twenty/sixty (20/60). A full eye examination must be administered by an optometrist or ~~ophthalmologist~~ ophthalmologist to any applicant whose uncorrected vision in either eye is twenty/one hundred fifty (20/150) or worse. Waiver to the above may be considered by the Council if accompanied by a vision specialist's

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certification that the applicant's condition will not jeopardize or impair the applicant's ability to perform the duties of a peace, detention, juvenile detention, or juvenile probation officer.

~~(3-20-04)~~(____)

c. Disease/Condition. The applicant must be free from any impediments of the senses of sight, hearing, taste, smell, and touch; physically sound; well developed physically and in possession of his extremities; free from any physical defects, chronic or organic diseases, organic or functional conditions, or emotional or mental instabilities which may tend to impair efficient performance of duty or which might endanger the lives of others or the life of the officer. Waiver to a physical defect may be considered by the Council upon the applicant's demonstration that the defect does not jeopardize or impair his ability to perform the duties of a peace, detention, juvenile detention, or juvenile probation officer. (3-20-04)

d. Agency Physical Agility/Fitness Test. To determine the applicant's physical capability, a physical agility or fitness test based upon the job requirements of the appointing agency must be administered by the appointing agency to each applicant. (3-20-04)

02. Procedures. (7-1-93)

a. A POST Council-approved medical history form must be supplied by each applicant to the examining physician. The medical history must include information on past and present diseases, injuries and operations. (3-20-04)

b. A medical examination must be administered by a licensed physician or his designee to determine if the applicant is free from any physical, emotional, or mental condition which might adversely affect the applicant's ability to perform the duties of a peace, detention, juvenile detention, or juvenile probation officer. The physician must record his findings on the appropriate form or letter and must note thereon, for evaluation by the appointing authority, any past or present physical defects, diseases, injuries, operations or conditions of an abnormal or unusual nature, or indications of mental or emotional instability. (3-20-04)

(BREAK IN CONTINUITY OF SECTIONS)

081. AGREEMENT TO SERVE.

01. Agreement. Pursuant to Section 19-5112, Idaho Code, any peace officer attending such schools or programs or directly or indirectly receiving the aid authorized by Section 19-5109, Idaho Code, shall execute an agreement whereby said officer promises to remain within the law enforcement profession, as defined in Subsection 010.125, on a full time basis, in the state of Idaho in a position approved by the Council for two (2) years following graduation from the POST Basic Training Academy. ~~(4-2-03)~~(____)

02. Pay Back. Except as provided below, any peace officer who fails to remain within the law enforcement profession, as defined in Subsection 010.125, on a full time basis, in the state of Idaho in a position approved by the Council for two (2) years following graduation from the

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POST Basic Training Academy, shall be required to pay back to the Council, the full amount of money set forth in the agreement. For the purposes of this rule, an officer who leaves full-time employment in the law enforcement profession and has not worked four thousand one hundred sixty (4,160) or more hours during the two (2) years following graduation from the POST Basic Training Academy shall be deemed to have failed to remain within the law enforcement profession, on a full time basis, for two (2) years following graduation from the POST Basic Training Academy. (4-2-03)(____)

a. If the officer remains within the law enforcement profession in excess of twelve (12) months but less than twenty-four (24) months and the officer's work within the law enforcement profession during that period averaged at least one hundred sixty (160) hours per month, the amount owed to the Council under Subsection 081.02 shall be prorated monthly and shall be reduced proportionately for each month from the date of graduation in which the officer was employed within the law enforcement profession for at least one hundred sixty (160) hours per month. (4-2-03)

b. If the officer resigns or is terminated for cause by the appointing agency, he shall owe the Council the amount set forth in the agreement. (3-15-02)

c. If the officer is terminated through no fault of his own by the appointing agency, he shall not owe the Council the amount set forth in the agreement. The agency shall provide the Council a letter stating that the officer was terminated through no fault of his own. (3-15-02)

03. Pay Back, Part-Time Basic Certificate. Any peace officer who is awarded a part-time basic certificate who fails to remain employed within the law enforcement profession in a position approved by the Council for the same amount of hours required in Subsection 081.02, shall be required to pay back to the Council the full amount of money set forth in the agreement. (4-2-03)

04. Position. The Council shall approve or disapprove positions on a case by case basis, after affording officers the opportunity to present information as to the duties, nature, and scope of the position. (3-15-02)

(BREAK IN CONTINUITY OF SECTIONS)

091. INTRODUCTION.

01. Certificates and Awards. Certificates and awards may be presented by the Council for the purpose of recognizing or raising the level of competence of law enforcement and to foster cooperation among the Council, agencies, groups, organizations, jurisdictions, and individuals. (3-20-97)

02. Property. Certificates and awards remain the property of the Council and are only valid as long as the officer is appointed as an Idaho peace, detention, juvenile detention, or juvenile probation officer. (4-2-03)

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03. Decertification.

()

a. The Council ~~may~~ shall decertify any officer who ~~pleads guilty or is found guilty, regardless of the form of judgment or withheld judgment~~ is convicted, as defined in Idaho Code Section 19-5109, of any felony or offense which would be a felony if committed in this state; The Council may decertify any officer who is convicted, as defined in Section 19-5109, Idaho Code, of any misdemeanor; ~~any unlawful use, possession, sale, or delivery of any controlled substance; or who~~ willfully or otherwise falsifies or omits any information to obtain any certified status; or ~~who~~ violates any of the standards of conduct as established by the council's code of conduct or code of ethics, as adopted and amended by the council. (7-1-99)()

b. Any officer decertified by the Council is not eligible for POST certification of any kind in the future except as a correction officer with approval by the POST Council. ()

04. Law Enforcement Code of Conduct. As a law enforcement officer, my fundamental duty is to serve the community; to safeguard lives and property; to protect the innocent against deception, the weak against oppression or intimidation, and the peaceful against violence or disorder; and to respect the Constitutional rights of all to liberty, equality, and justice. I recognize the badge of my office as a symbol of public faith, and I accept it as a public trust to be held so long as I am true to the ethics of police service. In furtherance of these duties, I hereby adopt and accept the following code of conduct: (7-1-99)

a. I shall conduct myself at all times in a manner that does not damage or have the likely result of damaging or bringing the public image, integrity, or reputation of my department or myself into discredit or disrepute. (7-1-99)

b. I shall not possess or consume alcoholic beverages on duty or while in uniform on duty or off duty, except as expressly required for the lawful performance of my duties. Nor shall I unlawfully possess, sell, consume, use or assist in the use of any illegal or unauthorized drugs or medications on duty or off duty. (7-1-99)

c. I shall not engage in any illegal or unlawful harassment or intimidation of another, nor shall I permit personal prejudices, political beliefs, animosities, or friendships to influence my decisions. (7-1-99)

d. I shall not lie, give misleading information, or falsify written or verbal communications in official reports or in ~~their~~ my actions with another person or organization when it is reasonable to expect that such information may be relied upon because of my position or affiliation with my department. (7-1-99)()

e. I shall willfully observe and obey the lawful verbal and written rules, duties, policies, procedures, and practices of my department. I shall also subordinate my personal preferences and work priorities to the lawful verbal and written rules, duties, policies, procedures and practices of my department, as well as to the lawful orders and directives of supervisors and superior command personnel of my department. I shall willfully perform all lawful duties and tasks assigned by supervisory and/or superior-ranked personnel. Direct, tacit, or constructive refusal to do so is insubordination. (7-1-99)

SENATE JUDICIARY & RULES COMMITTEE

IDAHO STATE POLICE
Rules of the POST Council

Docket No. 11-1101-0601
PENDING RULE

f. I shall obey the constitutional, criminal and civil laws of the city, county, state, and federal government. I will never engage in acts of corruption or bribery, nor will I condone such acts by other police officers. (7-1-99)

05. Law Enforcement Code of Ethics. ()

a. As a law enforcement officer, my fundamental duty is to serve the community; to safeguard lives and property; to protect the innocent against deception, the weak against oppression or intimidation, and the peaceful against violence or disorder; and to respect the Constitutional rights of all to liberty, equality and justice. ()

b. I will keep my private life unsullied as an example to all and will behave in a manner that does not bring discredit to me or to my agency. I will maintain courageous calm in the face of danger, scorn, or ridicule; develop self-restraint; and be constantly mindful of the welfare of others. Honest in thought and deed in both my personal and official life, I will be exemplary in obeying the law and the regulations of my department. Whatever I see or hear of a confidential nature or that is confided to me in my official capacity will be kept ever secret unless revelation is necessary in the performance of my duty. ()

c. I will never act officiously or permit personal feelings, prejudices, political beliefs, aspirations, animosities or friendships to influence my decisions. With no compromise for crime and with relentless prosecution of criminals, I will enforce the law courteously and appropriately without fear or favor, malice or ill will, never employing unnecessary force or violence and never accepting gratuities. ()

d. I recognize the badge of my office as a symbol of public faith, and I accept it as a public trust to be held so long as I am true to the ethics of police service. I will never engage in acts of corruption or bribery, nor will I condone such acts by other police officers. I will cooperate with all legally authorized agencies and their representatives in the pursuit of justice. ()

e. I know that I alone am responsible for my own standard of professional performance and will take every reasonable opportunity to enhance and improve my level of knowledge and competence. I will constantly strive to achieve these objectives and ideals, dedicating myself before God to my chosen profession...law enforcement. ()

(BREAK IN CONTINUITY OF SECTIONS)

095. LAW ENFORCEMENT EXPERIENCE.

Law enforcement experience, as used herein, means actual time served with a duly constituted law enforcement agency as a peace officer, county detention officer, or communications specialist ~~with a duly constituted law enforcement agency~~. The acceptability of time served as a peace officer, county detention officer, or communications specialist in a jurisdiction other than the state of Idaho, or in a jurisdiction which does not comply with the minimum standards for employment as set forth in Sections 050 through 063, ~~shall~~ will be subject to the determination of the Council.

SENATE JUDICIARY & RULES COMMITTEE

IDAHO STATE POLICE
Rules of the POST Council

Docket No. 11-1101-0601
PENDING RULE

(4-2-03)(____)

(BREAK IN CONTINUITY OF SECTIONS)

117. SUPERVISOR CERTIFICATE.

01. Requirements. For purposes herein, the term “first-line supervision position” means a position above the operational level which is occupied by an individual who, in the upward chain of command, principally is responsible for the direct supervision of non-supervisory personnel of an agency and most commonly holds the rank of sergeant. A candidate for the Supervisor Certificate ~~shall~~ must: (4-2-03)(____)

a. Possess the Intermediate or Advanced Certificate, Level II or III Detention Officer Certificate, or Level II or III Communications Specialist Certificate. (4-2-03)(____)

b. Have satisfactorily completed one hundred (100) hours of POST-certified supervisory-level training, of which fifty (50) hours ~~shall~~ must have been completed within three (3) years prior to submitting an application for the Supervisor Certificate. (4-2-03)(____)

c. Be presently appointed to a first-line supervision position with an Idaho law enforcement agency and ~~shall~~ must have served satisfactorily in that position for a minimum of one (1) year prior to application. Proof of position responsibilities ~~shall~~ must be submitted to the POST Council in the form of a job description or other documentation from the hiring authority. (4-2-03)(____)

(BREAK IN CONTINUITY OF SECTIONS)

174. LAW ENFORCEMENT EXPERIENCE.

Law enforcement experience, as used herein, means actual time served with a duly constituted law enforcement agency as a peace officer, county detention officer, or communications specialist ~~with a duly constituted law enforcement agency~~. The acceptability of time served as a peace officer, county detention officer, or communications specialist in a jurisdiction other than the state of Idaho, or in a jurisdiction which does not comply with the minimum standards for employment as set forth in Sections 050 through 063, ~~shall~~ will be subject to the determination of the Council. (4-2-03)(____)

(BREAK IN CONTINUITY OF SECTIONS)

327. ADMINISTRATION.

SENATE JUDICIARY & RULES COMMITTEE

IDAHO STATE POLICE
Rules of the POST Council

Docket No. 11-1101-0601
PENDING RULE

01. POST Council Administrative Rules. The vocational law enforcement program must maintain access to a current copy of the POST Council's Administrative Rules. (4-11-06)

02. Advisory Board/Committee. The vocational law enforcement program must have an advisory board/committee comprised of the POST Executive Director or his designee and criminal justice executives from several area agencies/organizations representative of the region the vocational program serves. (4-11-06)

a. The advisory board/committee must elect a chairman and vice-chairman from among the agency heads on the board/committee. The terms of office should be initially staggered. No chairman or vice-chairman may serve in that capacity for longer than four (4) consecutive years. (4-11-06)

b. The chairman or vice-chairman is responsible for scheduling and setting the agendas for all advisory board/committee meetings as well as for working with the program coordinator and/or administration of the vocational law enforcement program. The chairman or vice-chairman may perform other duties as necessary. (4-11-06)

03. Waiver Requests. The chairman of the advisory board/committee may request a waiver from the POST Executive Director for a student who, more than two (2) years prior to application, was convicted of DUI; a misdemeanor other than a sex crime, crime of deceit, or drug offense; driving without privileges; ~~or~~ had his driver's license suspended; or received a "general under honorable conditions" or "uncharacterized" discharge from the military service. (4-11-06)()

a. The advisory board/committee chairman must conduct a thorough background investigation to include the review of all police and court documents, including arrest reports and court dispositions; military records; and a written explanation from the student fully describing the circumstances and disposition of each arrest and incident. (4-11-06)()

b. The advisory board/committee chairman has sole discretion in determining whether a waiver should be requested. The advisory board/committee may be afforded an appeal at the chairman's discretion or if the advisory board/committee has a policy in place. (4-11-06)

c. If the advisory board/committee chairman determines that a waiver should be pursued, he must submit a written request along with all documentation to the POST Executive Director. The request must indicate that the advisory board/committee is aware of the arrest or incident, has investigated the circumstances surrounding the arrest or incident, and that he recommends approval of a waiver. (4-11-06)()

d. If the POST Executive Director denies a request for a waiver, the decision is final unless the student obtains employment with an Idaho law enforcement agency and that agency requests a waiver from the POST Council. (4-11-06)

SENATE JUDICIARY & RULES COMMITTEE

IDAPA 11 - IDAHO STATE POLICE

11.11.02 - RULES OF THE IDAHO PEACE OFFICER STANDARDS AND TRAINING COUNCIL FOR JUVENILE DETENTION OFFICERS

DOCKET NO. 11-1102-0601

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2007 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 19-5107, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 4, 2006 Idaho Administrative Bulletin, Vol. 06-10, pages 150 and 151.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:
N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Trish Christy at (208) 884-7253.

DATED this 26th day of October, 2006.

THIS NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 19-5107, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 18, 2006.

SENATE JUDICIARY & RULES COMMITTEE

IDAHO STATE POLICE
POST Council for Juvenile Detention Officers

Docket No. 11-1102-0601
PENDING RULE

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Amends rule to reflect the addition of a county clerk to the Juvenile Training Council.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because representatives of the affected parties were involved in the drafting of the rule.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Trish Christy at (208) 884-7253.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 25, 2006.

DATED this 23rd day of August, 2006.

Douglas L. Graves
Acting Executive Director
Idaho State Police/Peace Officer Standards and Training
700 S. Stratford Dr.
P.O. Box 700
Meridian, ID 83680-0700
(208) 884-7049
(208) 884-7295 (FAX)

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

010. DEFINITIONS.

SENATE JUDICIARY & RULES COMMITTEE

IDAHO STATE POLICE
POST Council for Juvenile Detention Officers

Docket No. 11-1102-0601
PENDING RULE

01. Basic Juvenile Detention Academy. A basic course of instruction for Juvenile Detention Officers as recognized by POST Council. (3-30-01)

02. Challenge Exam. A test to determine a person's competence for waiver of the basic Juvenile Detention Academy. (3-30-01)

03. Juvenile Detention Center. A facility designed to temporarily detain juveniles who require secure custody for their own or the community's protection in physically restricting facilities. (3-30-01)

04. Juvenile Detention Officer. Any employee of a juvenile detention center which is part of or administered by the county or any political subdivision thereof and who is responsible for the safety, care, protection, and monitoring of juvenile offenders held in the detention center. (3-30-01)

05. Juvenile Training Council. An advisory group to the POST Council that is represented by the Director of the Department of Juvenile Corrections, a Magistrate, a county Juvenile Detention Director, a county Chief Probation Officer, a county Commissioner, a county Clerk, and a county Sheriff. The purpose of the Juvenile Training Council is to advise POST Council in the planning, development, and operation of the Juvenile Detention Academy. ~~(3-30-01)~~(____)

06. Mandatory Certification. To issue a certificate to a juvenile detention officer based upon successful completion of the mandatory training requirements established by POST Council. (3-30-01)

07. Part-Time Juvenile Detention Officer. Any employee of a juvenile detention center which is part of or administered by the county or any political subdivision thereof and who is responsible for the safety, care, protection, and monitoring of juvenile offenders held in the detention center, and does not meet the definition of "employee" as defined in Section 59-1302, Idaho Code. (4-11-06)

08. Voluntary Certification. To issue a certificate to a juvenile detention officer based upon successful completion of the voluntary training requirements established by POST Council. (3-30-01)

SENATE JUDICIARY & RULES COMMITTEE

IDAPA 11 - IDAHO STATE POLICE

11.11.03 - RULES OF THE IDAHO PEACE OFFICER STANDARDS AND TRAINING COUNCIL FOR JUVENILE PROBATION OFFICERS

DOCKET NO. 11-1103-0601

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2007 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 19-5107, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 4, 2006 Idaho Administrative Bulletin, Vol. 06-10, pages 152 and 153.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:
N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Trish Christy at (208) 884-7253.

DATED this 26th day of October, 2006.

THIS NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 19-5107, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 18, 2006.

SENATE JUDICIARY & RULES COMMITTEE

IDAHO STATE POLICE
POST Council for Juvenile Probation Officers

Docket No. 11-1103-0601
PENDING RULE

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Amends rule to reflect the addition of a county clerk to the Juvenile Training Council.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because representatives of the affected parties were involved in the drafting of the rule.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Trish Christy at (208) 884-7253.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 25, 2006.

DATED this 23rd day of August, 2006.

Douglas L. Graves
Acting Executive Director
Idaho State Police/Peace Officer Standards and Training
700 S. Stratford Dr.
P.O. Box 700
Meridian, ID 83680-0700
(208) 884-7049
(208) 884-7295 (FAX)

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

010. DEFINITIONS.

01. Basic Juvenile Probation Academy. A basic course of instruction for Juvenile Probation Officers as recognized by POST Council. (5-3-03)

SENATE JUDICIARY & RULES COMMITTEE

IDAHO STATE POLICE
POST Council for Juvenile Probation Officers

Docket No. 11-1103-0601
PENDING RULE

02. Challenge Exam. A test to determine a person's competence for waiver of the basic Juvenile Probation Academy. (5-3-03)

03. Juvenile Probation Department. Any public or private agency administered by or contracted with the court, made up of one (1) or more staff to provide juvenile probation services to a county at the expense and concurrence of the county commissioners. Services may include intake, diversion, supervision, restitution, and community service work. (5-3-03)

04. Juvenile Probation Officer. Any employee of a county juvenile probation department who is responsible for preparing social history reports to the court, making recommendations regarding conditions of probation and the supervision of juvenile offenders' compliance with court orders. (5-3-03)

05. Juvenile Training Council. An advisory group to the POST Council that is represented by the Director of the Department of Juvenile Corrections, a Magistrate, a county Juvenile Detention Director, a county Chief Probation Officer, a county Commissioner, a county Clerk, and a county Sheriff. The purpose of the Juvenile Training Council is to advise POST Council in the planning, development, and operation of the Juvenile Probation Academy. ~~(5-3-03)~~(____)

06. Mandatory Certification. To issue a certificate to a juvenile probation officer based upon successful completion of the mandatory training requirements established by POST Council. (5-3-03)

07. Voluntary Certification. To issue a certificate to a juvenile probation officer based upon successful completion of the voluntary training requirements established by POST Council. (5-3-03)

SENATE JUDICIARY & RULES COMMITTEE

IDAPA 11 - IDAHO STATE POLICE

11.11.04 - RULES OF THE IDAHO PEACE OFFICER STANDARDS AND TRAINING COUNCIL FOR CORRECTION OFFICERS AND ADULT PROBATION AND PAROLE OFFICERS

DOCKET NO. 11-1104-0601

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2007 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 19-5107, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 4, 2006 Idaho Administrative Bulletin, Vol. 06-10, pages 154 and 155.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:
N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Trish Christy at (208) 884-7253.

DATED this 26th day of October, 2006.

THIS NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 19-5107, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 18, 2006.

SENATE JUDICIARY & RULES COMMITTEE

IDAHO STATE POLICE
POST for Correction/Adult Probation/Parole Officers

Docket No. 11-1104-0601
PENDING RULE

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Extends the voluntary certification option for correction officers from 2008 to 2010 and for adult probation and parole officers from 2007 to 2009.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because representatives of the affected parties were involved in the drafting of the rule.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Trish Christy at (208) 884-7253.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 25, 2006.

DATED this 22nd day of August, 2006.

Douglas L. Graves
Acting Executive Director
Idaho State Police/Peace Officer Standards and Training
700 S. Stratford Dr.
P.O. Box 700
Meridian, ID 83680-0700
(208) 884-7049
(208) 884-7295 (FAX)

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

SENATE JUDICIARY & RULES COMMITTEE

IDAHO STATE POLICE
POST for Correction/Adult Probation/Parole Officers

Docket No. 11-1104-0601
PENDING RULE

052. CORRECTION OFFICER CERTIFICATION.

01. Mandatory Certification. Every correction officer employed after July 1, 2005 must be certified by the Peace Officer Standards and Training Council within one (1) year after first being appointed unless granted additional time to complete certification by the POST Council as set forth in IDAPA 11.11.01, "Rules of the Idaho Peace Officer Standards and Training Council," Subsection 030.16. (4-11-06)

02. Voluntary Certification. Correction officers employed prior to July 1, 2005, although specifically excluded by law from meeting the requirements set by the Council, may be certified provided they meet the minimum requirements for certification as prescribed in Sections 022, 031 through 043, and 053 of these rules. However, the requirement for successful completion of the POST Basic Correction Academy will be waived if the officer scores a minimum of seventy-five percent (75%) on the POST correction certification examination approved by the Council. The applicant will be allowed two (2) attempts to pass the examination. The attempts must be no less than thirty (30) days apart and no more than six (6) months apart. If an officer fails both attempts or fails to retake the examination within six (6) months, he must successfully complete the POST Basic Correction Academy to be certified. This option closes on June 30, 200810. (~~4-11-06~~)()

(BREAK IN CONTINUITY OF SECTIONS)

063. ADULT PROBATION AND PAROLE OFFICER CERTIFICATION.

01. Mandatory Certification. Every adult probation and parole officer employed after July 1, 2005 must be certified by the Peace Officer Standards and Training Council within one (1) year after first being appointed unless granted additional time to complete certification by the POST Council as set forth in IDAPA 11.11.01, "Rules of the Idaho Peace Officer Standards and Training Council," Subsection 030.16. (4-11-06)

02. Voluntary Certification. Adult probation and parole officers employed prior to July 1, 2005, although specifically excluded by law from meeting the requirements set by the Council, may be certified provided they meet the minimum requirements for certification as prescribed in Sections 022, 061, and 064 of these rules. However, the requirement for successful completion of the POST Basic Adult Probation and Parole Academy will be waived if the officer scores a minimum of seventy-five percent (75%) on the POST adult probation and parole certification examination approved by the Council. The applicant will be allowed two (2) attempts to pass the examination. The attempts must be no less than thirty (30) days apart and no more than six (6) months apart. If an officer fails both attempts or fails to retake the examination within six (6) months, he must successfully complete the POST Basic Adult Probation and Parole Academy to be certified. This option closes on June 30, 20079. (~~4-11-06~~)()

SENATE JUDICIARY & RULES COMMITTEE

IDAPA 21 - DIVISION OF VETERANS SERVICES

21.01.01 - RULES GOVERNING ADMISSION, RESIDENCY, AND MAINTENANCE CHARGES IN IDAHO STATE VETERANS HOMES AND DIVISION OF VETERANS SERVICES ADMINISTRATIVE PROCEDURE

DOCKET NO. 21-0101-0601

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2007 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 65-202, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the July 5, 2006 Idaho Administrative Bulletin, Vol. 06-7, pages 69 through 73.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Joe Bleymaier, Administrator, (208) 334-3513.

DATED this 1st day of August 2006.

THIS NOTICE WAS PUBLISHED WITH THE TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is July 1, 2006.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section 65-202, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an

SENATE JUDICIARY & RULES COMMITTEE

DIVISION OF VETERANS SERVICES

Docket No. 21-0101-0601

Admission/Residency/Maintenance Charges - Veterans Homes

PENDING RULE

agency, not later than July 19, 2006.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking: This rulemaking is necessary to implement 2006 Idaho Session Laws, Chapter 50, which authorizes the admission of spouses to the Idaho State Veterans Homes.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226(1)(a), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

The rulemaking is necessary to comply with deadlines in amendments to governing law.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

This rulemaking will have no fiscal impact on the general fund.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because changes in the rules are required to comply with amended governing law effective July 1, 2006.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Joe Bleymaier, Administrator, (208) 334-3513.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 26, 2006.

DATED this 23rd day of May, 2006.

Joe Bleymaier, Administrator
Division of Veterans Services
320 Collins Rd., Boise, Idaho 83702
Phone: (208) 334-3513; Fax: (208) 334-2627

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

SENATE JUDICIARY & RULES COMMITTEE

DIVISION OF VETERANS SERVICES

Docket No. 21-0101-0601

Admission/Residency/Maintenance Charges - Veterans Homes

PENDING RULE

010. DEFINITIONS.

For the purposes of the rules contained in this Chapter, the following terms are used as defined:

(3-15-02)

01. Applicant. A person who has expressed interest in applying for residency in an Idaho State Veterans Home. (3-30-01)

02. Bona Fide Resident. A person who maintains a principal or primary home or place of abode in the state of Idaho coupled with the present intent to remain at that home or abode and return to it after any period of absence pursuant to Section 66-901, Idaho Code. (3-30-01)

03. Commission. The Idaho Veterans Affairs Commission. (3-30-01)

04. County Service Officer. A person appointed by the county to provide assistance to veterans in accordance with Section 65-601, Idaho Code. (3-30-01)

05. Department. The Idaho Department of Self Governing Agencies. (3-30-01)

06. Division. Division of Veterans Services in the Idaho Department of Self Governing Agencies. (3-30-01)

07. Division Administrator. The Administrator of the Division of Veterans Services in the Department of Self Governing Agencies, or his designee. The chief officer of the Division of Veterans Services. (3-30-01)

08. Home Administrator. Administrator of an Idaho State Veterans Home. The chief officer of each respective Veterans Home. (3-30-01)

09. Home. An Idaho State Veterans Home. (3-30-01)

10. Idaho State Veterans Home. Pursuant to Section 66-901, Idaho Code, a Home for eligible veterans. (3-30-01)

11. Legal Dependents. The mother, father, spouse, or minor children of an applicant ~~or a~~ resident who, by reason of insufficient financial resources, or non-minor children who because of disease, handicap or disability, must have financial support from the applicant ~~or~~ resident in order to maintain themselves. ~~(3-30-01)~~ (7-1-06)T

12. Liquid Assets. Those assets which can be liquidated for cash within a reasonable period of time including, but not limited to, money market certificates, certificates of deposit, stocks and bonds, and some tax shelter investments. (3-30-01)

13. Maintenance Charge. A charge made for care and residence at an Idaho State Veterans Home, based upon the current established rate. (3-30-01)

14. Net Income. That income used to compute charges after allowable deductions have been made. (3-30-01)

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DIVISION OF VETERANS SERVICES

Admission/Residency/Maintenance Charges - Veterans Homes

Docket No. 21-0101-0601

PENDING RULE

15. **Resident.** A ~~veteran~~ person who is a resident of an Idaho State Veterans Home. (3-30-01)(7-1-06)T

16. **Spouse.** The husband or wife, under a marriage recognized by Title 32, Idaho Code, of a veteran or the widow or widower of a veteran under a marriage recognized by Title 32, Idaho Code. (7-1-06)T

167. **VA.** United States Department of Veterans Affairs. (3-30-01)

178. **Veteran.** Shall have the meaning established in Section 65-203, Idaho Code. (3-30-01)

(BREAK IN CONTINUITY OF SECTIONS)

100. ELIGIBILITY REQUIREMENTS.

~~An~~ Applicants / and residents must ~~be a veteran of the armed forces and must~~ satisfy the following requirements, ~~pursuant to Sections 66901 and 66907, Idaho Code:~~ (3-30-01)(7-1-06)T

01. **Veterans or Eligible Spouse.** (7-1-06)T

a. **Nursing Care.** Applicants for and residents of nursing care must be a veteran or the spouse of a veteran who is eligible for admission to a Home. The death of a veteran shall not disqualify a resident spouse if the veteran was eligible for admission to a Home at the time of death. (7-1-06)T

b. **Residential Care and Domiciliary Care.** Applicants for and residents of residential care and domiciliary care must be a veteran. A Home will not grant spouses admission for residential care or domiciliary care. (7-1-06)T

042. **Idaho Residency.** The applicant must be a bona fide resident of the state of Idaho at the time of admission to a Home. (3-30-01)

023. **Incompetent Applicants.** Applicants and residents who are ~~considered~~ incompetent must provide copies of a legally sufficient guardianship or power of attorney. (3-30-01)(7-1-06)T

034. **Necessity of Required Services.** Applicants and residents must meet the requirements for the level of care for which they apply or are receiving. At the request of the Home, residents must provide recertification of their need for services from a VA physician or a physician currently licensed by the Idaho Board of Medicine to practice medicine or surgery in the state of Idaho. (3-30-01)(7-1-06)T

a. **Nursing Care.** To be eligible to receive nursing care in a state veterans home, applicants must be referred by a VA physician or a physician currently licensed by the Idaho Board of Medicine to practice medicine or surgery in the state of Idaho. (3-30-01)

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b. Residential Care. Each applicant must submit to a physical examination performed by a licensed physician and meet the physical limitation requirements for residential care. ~~The~~ Applicants and residents must be unable to earn a living and have no adequate means of support due to wounds, old age, or physical or mental disabilities. However, each residential care resident must ambulate independently or with the aid of a wheelchair, walker, or similar device and be capable of performing at the time of admission, and for the duration of his residency, all of the following with minimal assistance: ~~(3-20-04)(7-1-06)T~~

- i. Making his bed daily; (3-30-01)
- ii. Maintaining his room in a neat and orderly manner at all times; (3-30-01)
- iii. Keeping all clothing clean through proper laundering; (3-30-01)
- iv. Observing cleanliness in person, dress and living habits and dressing himself; (3-30-01)
- v. Bathing or showering frequently; (3-30-01)
- vi. Shaving daily or keeping his mustache or beard neatly groomed; (3-30-01)
- vii. Proceeding to and returning from the dining room and feeding himself; (3-30-01)
- viii. Securing medical attention on an ambulatory basis and managing medications; (3-30-01)
- ix. Maintaining voluntary control over body eliminations or control by use of an appropriate prosthesis; and (3-30-01)
- x. Making rational decisions as to his desire to remain or leave the Home. (3-30-01)

c. Domiciliary Care. Each applicant must submit to a physical examination performed by a licensed physician and meet the physical limitation requirements for domiciliary care. ~~The~~ Applicants and residents must be unable to earn a living and have no adequate means of support due to wounds, old age, or physical or mental disabilities. However, each domiciliary care resident must be able to ambulate independently and must be capable of performing at the time of admission, and for the duration of his residency, all of the following without assistance: ~~(3-20-04)(7-1-06)T~~

- i. Making his bed daily; (3-30-01)
- ii. Maintaining his room in a neat and orderly manner at all times; (3-30-01)
- iii. Keeping all clothing clean through proper laundering; (3-30-01)
- iv. Observing cleanliness in person, dress and living habits and dressing himself; (3-30-01)

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- v. Bathing or showering frequently; (3-30-01)
- vi. Shaving daily or keeping his mustache or beard neatly groomed; (3-30-01)
- vii. Proceeding to and returning from the dining room and feeding himself; (3-30-01)
- viii. Securing medical attention on an ambulatory basis and managing medications; (3-30-01)
- ix. Maintaining voluntary control over body eliminations or control by use of an appropriate prosthesis; and (3-30-01)
- x. Making rational and competent decisions as to his desire to remain or leave the Home. (3-30-01)

045. Placement Restriction. A Home shall not accept applicants or continue to extend care to residents for whom the facility does not have the capability or services to provide an appropriate level of care. (3-30-01)

056. Financial Statement. Each applicant must file a signed, dated statement with the Home Administrator containing a report of income from all sources and a report of all liquid assets which will be used to determine the amount of the maintenance charge which is required in accordance with Section 66-907, Idaho Code, and IDAPA 21.01.01, "Rules Governing Admission, Residency, and Maintenance Charges in Idaho State Veterans Homes and Division of Veterans Services Administrative Procedure". (3-30-01)

067. Social Security Benefits. If eligible for Social Security benefits, the applicants ~~and~~ residents ~~and their~~ spouses must apply for those benefits unless waived by the Home Administrator. ~~(3-30-01)~~(7-1-06)T

078. Medicare Coverage. If eligible for Medicare ~~parts "A" and "B"~~, the applicants ~~and~~ residents must elect to participate, unless participation is waived by the Home Administrator. ~~(3-30-01)~~(7-1-06)T

089. Income Limitation. (3-30-01)

a. Nursing Care. None. (3-30-01)

b. Residential and Domiciliary Care. An applicant whose total monthly net income, at the time of his application for residency, exceeds the current maximum annual rate of VA pension for a single veteran pursuant to Public Law 95588 divided by twelve (12) cannot be admitted unless granted a waiver by the Home Administrator. This waiver must include a statement from a VA Medical Center physician indicating the veteran is in "need of continuing medical care". (3-30-01)

0910. VA Pension -- Nursing Care. Unless waived by the Home Administrator, a wartime veteran, as defined in 5 U.S.C. Section 2108, who is a nursing care applicant ~~or~~ resident

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must be eligible for, apply for, ~~and~~/or be in receipt of a VA disability pension in accordance with Public Law 95588. Such waivers may be considered only when the applicant / or resident has signed a statement ~~indicating~~ that he is ~~unable~~ to defray the necessary expenses of the medical care for which he is applying or receiving and arrangements are made to secure medical services not provided by the VA. ~~(5-3-03)(7-1-06)T~~

101. Agreements for Behavior and Care Needs. The Idaho State Veterans Homes may require that applicants or residents enter into agreements concerning the applicant or resident's behavior and/or care needs while residing in the Home. The resident's failure to perform these agreements is a basis for discharge from the Home. (3-15-02)

12. Limit on Admission of Spouses. Unless waived in writing by the Division Administrator, a Home shall not accept spouses for admission if the Home's residency is at ninety-five percent (95%) or more of capacity. Homes shall not admit a spouse if the number of spouses residing in the home will exceed twenty-five percent (25%) of the residents of the Home following admission of the applicant. (7-1-06)T

101. -- 149. (RESERVED).

150. APPLICATION PROCEDURE.

01. Availability of Application Forms. Forms to apply for residence in a Home are available: (3-30-01)

a. From any Idaho State Veterans Home; (3-30-01)

b. From any county service officer; or (3-30-01)

c. From any active post or barracks service officer of veterans organizations. (3-30-01)

02. Submission of Application. An application may be submitted to the administrative offices of an Idaho State Veterans Home. (3-30-01)

03. Application Processing. Completed applications will be processed no later than three (3) working days from receipt. (3-30-01)

04. Waiting List. An applicant who is approved for admission for whom a vacancy does not exist will be placed on a waiting list and accepted on a first come, first served basis dependent on the Home's ability to provide a level of care consistent with the needs of the applicant. The Home Administrator may award "priority status" to prospective Home residents resulting in their names being placed near the top of the Home waiting list, provided they have completed all preadmission requirements and meet one (1) or more of the following criteria: ~~(3-30-01)(7-1-06)T~~

a. Veterans who served during any war or conflict officially engaged in by the government of the United States. (3-30-01)

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b. Previous residents of Idaho State Veterans Homes who have been discharged for therapeutic treatment or to live in a lesser level of care or in an independent setting and whose discharge plan indicates a readmission priority. (3-30-01)

c. Current Home residents who demonstrate a need for a level of care provided by an Idaho State Veterans Home and who would benefit from maintaining a stable environment. (3-30-01)

d. Receive special consideration as per the request of the medical director because of his desire to provide a very specific continuum of care. (3-30-01)

05. Provision If Application Rejected. An applicant whose application has been rejected and who feels he meets the eligibility requirements can request a hearing in accordance with the procedures specified in Section 982, et seq. (3-30-01)

SENATE JUDICIARY & RULES COMMITTEE

IDAPA 21 - DIVISION OF VETERANS SERVICES

21.01.01 - RULES GOVERNING ADMISSION, RESIDENCY, AND MAINTENANCE CHARGES

IN IDAHO STATE VETERANS HOMES AND DIVISION OF VETERANS SERVICES ADMINISTRATIVE PROCEDURE

DOCKET NO. 21-0101-0602

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2007 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 65-202, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the July 5, 2006 Idaho Administrative Bulletin, Vol. 06-7, pages 74 through 77.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Joe Bleymaier, Administrator, (208) 334-3513.

DATED this 1st day of August 2006.

THIS NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 65-202, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 19, 2006.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation

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DIVISION OF VETERANS SERVICES

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Admission/Residency/Maintenance Charges - Veterans Homes

PENDING RULE

must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

This rulemaking incorporates all rules governing the Idaho State Veterans Homes into a single chapter and allows for written interpretations of the rules.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking:

This rulemaking will have no fiscal impact on the general fund.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because of the simple nature of the proposed rules.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Joe Bleymaier, Administrator, (208) 334-3513.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 26, 2006.

DATED this 23rd day of May, 2006.

Joe Bleymaier, Administrator
Division of Veterans Services
320 Collins Rd.
Boise, Idaho 83702
Phone: (208) 334-3513
Fax: (208) 334-2627

THE FOLLOWING IS THE TEXT OF PENDING RULE

002. WRITTEN INTERPRETATIONS.

~~There are no written interpretations for this Chapter.~~ In accordance with Section 67-

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DIVISION OF VETERANS SERVICES**Docket No. 21-0101-0602****Admission/Residency/Maintenance Charges - Veterans Homes****PENDING RULE**

5201(19)(b)(iv), Idaho Code, this agency may have written statements that pertain to the interpretation of these rules, or to compliance with these rules. Any such documents are available for public inspection and copying at cost at the Idaho Division of Veterans Services office.

~~(3-30-01)~~(____)

(BREAK IN CONTINUITY OF SECTIONS)

915. MAINTENANCE CHARGES.

Upon becoming a resident of an Idaho State Veterans Home, each resident is liable for the payment of a maintenance charge as well as expenses for supplies, medication, equipment, and services (other than basic services for the assigned level of care) that are not provided or paid for by VA, Medicaid, Medicare, or other insurance unless otherwise determined by the Home Administrator. Residents living in a Home for any part of a month must pay for each day, based on the actual number of days in the month, at that fraction of their total charge. Refusal or failure to pay the established maintenance charge or related expenses is cause for discharge from the Home. (3-30-01)

01. Charges. Charges will be computed, based on the following factors: (3-30-01)

a. If the resident has an income, those items used to compute the charge will include: (3-30-01)

i. Social Security benefits; (3-30-01)

ii. Retirement benefits; (3-30-01)

iii. Income from annuities; (3-30-01)

iv. Insurance benefits; (3-30-01)

v. Rental from property; (3-30-01)

vi. Farm income; (3-30-01)

vii. VA pensions or compensations; (3-30-01)

viii. Tax refunds; and (3-30-01)

ix. Income from any and all other sources. (3-30-01)

b. If the resident is single, incompetent, and has liquid assets in excess of one thousand five hundred dollars (\$1,500), he will be assessed the current maximum charge until those assets are reduced to less than one thousand five hundred dollars (\$1,500). (3-15-02)

c. If the resident is single, competent, and has liquid assets in excess of fifteen

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DIVISION OF VETERANS SERVICES**Docket No. 21-0101-0602****Admission/Residency/Maintenance Charges - Veterans Homes****PENDING RULE**

hundred dollars (\$1,500), he will be assessed the current maximum charge until those assets are reduced to less than fifteen hundred dollars (\$1,500). (3-30-01)

d. Joint income will be used in computing charges for married persons. If the resident has dependents who rely upon him for financial support, the amount of liquid assets will not be drawn upon after they have declined to a level of five thousand dollars (\$5,000). (3-30-01)

02. Exclusions from Income or Payment. The only exclusions in computing monthly charges will be: (3-30-01)

a. Those funds which a resident receives from the sale of hobby/craft items constructed and sold as part of a Home occupational therapy program; or (3-30-01)

b. Those unusual expenses specified below, which are incurred after the resident's admission to a Home and are approved by the Home Administrator, up to a maximum monthly allowance which is established pursuant to Section 980: (3-30-01)

i. Prosthetic, orthopedic, and paraplegic appliances; (3-30-01)

ii. Sensory aids; (3-30-01)

iii. Wheelchairs; (3-30-01)

iv. Therapy services; (3-30-01)

v. Hospital, medical, surgical expenses and bills for prescription drugs incurred and paid by the individual in the current month and documented by a paid receipt. (3-30-01)

c. Reasonable medical insurance premiums, as paid, with documentation of payment. Other insurance premiums are excluded from consideration; or (3-30-01)

d. An allowance established pursuant to Section 980 for retention by a resident for personal needs; (3-30-01)

e. That amount necessary for a resident of a Home to contribute to the support of a legal dependent where proof of actual payment is documented. A monthly allowance will be established for a spouse or additional dependents pursuant to Section 980. (These allowances take into consideration housing and utility costs.) (3-30-01)

03. Income Eligibility Limits. (3-30-01)

a. Nursing Care. None. (3-30-01)

b. Residential and Domiciliary Care. A resident's total monthly net income, from all sources, may not exceed the current maximum annual rate of VA pension for a single veteran pursuant to Public Law 95-588 divided by twelve (12) unless waived by the Home Administrator in accordance with Subsection 100.08. (3-30-01)

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c. While in residence at a Home, a domiciliary resident may seek outside employment and receive income so that his total monthly net income from all sources will exceed the current maximum annual rate of VA pension for a single veteran pursuant to Public Law 95-588 divided by twelve (12) for a one (1) month transitional period. At the end of this one (1) month transitional period, the resident will be discharged. (3-30-01)

04. Continued Eligibility. (3-30-01)

a. Nursing Care. A resident may continue to be eligible for residency in a Home, regardless of income changes, if the conditions defined in Subsection 100.09 continue to be met. (3-30-01)

b. Residential and Domiciliary Care. If a resident's net monthly income exceeds the income eligibility limit after admission to the Home, the resident may appeal to the Home Administrator for a waiver of the income eligibility limit which may be granted for good cause. Consideration for good cause must include "need for continuing medical care" as documented by a VA Medical Center physician. (3-30-01)

05. Charges. (3-30-01)

a. Nursing Care. After allowable deductions, a resident will be assessed a fee equal to the remaining portion of his net monthly income up to the maximum charge. The maximum monthly maintenance charge is based on historical costs that are adjusted to include anticipated costs and an inflation factor. Changes to the maximum charge are made pursuant to Section 980. (3-30-01)

b. Residential Care. After allowable deductions, a resident will be assessed a fee of seventy-five percent (75%) of the remaining portion of his net monthly income up to the maximum charge. The maximum monthly maintenance charge shall be seventy-five percent (75%) of the current maximum annual rate of VA pension for a single veteran pursuant to Public Law 95-588 divided by twelve (12). (3-30-01)

c. Domiciliary Care. After allowable deductions, a resident will be assessed a fee of sixty percent (60%) of the remaining portion of his net monthly income up to the maximum charge. The maximum monthly maintenance charge shall be sixty percent (60%) of the current maximum annual rate of VA pension for a single veteran pursuant to Public Law 95-588 divided by twelve (12). (3-30-01)

06. Payment Schedule. Maintenance charges are due the first of each month and must be paid in full by the resident or guardian on or before the tenth (10) day of the month. Payments may be made either by cash or by check, and a receipt will be issued. (3-15-02)

07. Security Deposit. A deposit of one hundred dollars (\$100) will be required by domiciliary and residential care residents upon admission to a Home, unless waived by the Home Administrator. This deposit will be held until the resident leaves. Any debts or liabilities on behalf of the resident will be offset against this deposit at that time. After payment of any debts or liabilities, the remaining balance of the deposit will be returned to the outgoing resident. (5-3-03)

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PENDING RULE

08. Leave of Absence or Hospitalization. ~~No reduction in~~ Residents receiving Medicaid or Medicare will be charged for leave of absence or hospitalization in accordance with Medicaid and Medicare requirements. The Home will not reduce charges ~~will be made~~ for leave of absence or hospitalization of residents not receiving Medicaid or Medicare and each day will count as if the resident were present at a Home. ~~Unless waived by the Home Administrator, the Home will charge residents receiving Medicaid the current VA per diem rate for each absent day of a leave of absence or hospitalization in excess of twenty-four (24) hours. Also, in the case~~ Unless waived by the Home Administrator, the Home will charge residents not receiving Medicaid the current VA per diem rate for each absent day of a leave of absence or hospitalization in excess of ninety-six (96) hours or a hospital stay in excess of ten (10) days; ~~the resident will be charged the current VA per diem rate for each absent day unless waived by the Home Administrator.~~ Residents receiving Medicaid may be granted therapeutic leaves upon a doctor's orders for up to seventy-two (72) hours, not to exceed fifteen (15) days in a calendar year.

(3-15-02)(____)

09. Medicaid Eligibility. All nursing care residents, including re-admitted residents, entering a Home on or after July 1, 2000 must either apply for or become eligible for Medicaid benefits, or must pay the maximum monthly charge as it may be established from time to time. Eligibility for Medicaid benefits is determined entirely by the Idaho Department of Health and Welfare and its agents. Residents who cannot, or choose not to, qualify for Medicaid shall be required to pay for services in full from other than Medicaid funds. Care and services for those residents who are Medicaid eligible will be billed to and paid by Medicaid. Residents eligible for Medicaid will be assessed a fee equal to the resident's liability as determined by Medicaid.(____)

SENATE JUDICIARY & RULES COMMITTEE

IDAPA 21 - DIVISION OF VETERANS SERVICES

21.01.03 - RULES GOVERNING MEDICAID QUALIFIED UNITS IN IDAHO STATE VETERANS HOMES

DOCKET NO. 21-0103-0601 (CHAPTER REPEAL)

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2007 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 65-202, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the July 5, 2006 Idaho Administrative Bulletin, Vol. 06-7, page 78. This chapter is repealed in its entirety.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Joe Bleymaier, Administrator, (208) 334-3513.

DATED this 1st day of August, 2006.

THIS NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 65-202, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 19, 2006.

SENATE JUDICIARY & RULES COMMITTEE

DIVISION OF VETERANS SERVICES
Medicaid Qualified Units**Docket No. 21-0103-0601**
PENDING RULE

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

This rulemaking repeals IDAPA 21, Title 01, Chapter 03, "Rules Governing Medicaid Qualified Units in Idaho State Veterans Homes". This rulemaking helps simplify the Division's rules governing the State Veterans Homes by placing all applicable rules into a single chapter.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking:

This rulemaking will have no fiscal impact on the general fund.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because of the non-technical nature of the repeal.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Joe Bleymaier, Administrator, (208) 334-3513.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 26, 2006.

DATED this 23rd day of May, 2006.

Joe Bleymaier, Administrator
Division of Veterans Services
320 Collins Rd.
Boise, Idaho 83702
Phone: (208) 334-3513
Fax: (208) 334-2627

IDAPA 21.01.03 IS BEING REPEALED IN ITS ENTIRETY

SENATE JUDICIARY & RULES COMMITTEE

IDAPA 21 - DIVISION OF VETERANS SERVICES

21.01.04 - RULES GOVERNING THE IDAHO STATE VETERANS CEMETERY

DOCKET NO. 21-0104-0601

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2007 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 65-202, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the July 5, 2006 Idaho Administrative Bulletin, Vol. 06-7, pages 79 through 81.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Joe Bleymaier, Administrator, (208) 334-3513.

DATED this 1st day of August 2006.

THIS NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 65-202, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 19, 2006.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

SENATE JUDICIARY & RULES COMMITTEE

DIVISION OF VETERANS SERVICES
The Idaho State Veterans Cemetery

Docket No. 21-0104-0601
PENDING RULE

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

This rulemaking clarifies that use of cemetery property for recreation is limited to uses that are consistent with honoring deceased veterans and their families.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking:

This rulemaking will have no fiscal impact on the general fund.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because affected interests are unlikely to reach consensus and there are no alternatives available to provide adequate respect to the deceased and their families.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Joe Bleymaier, Administrator, (208) 334-3513.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 26, 2006.

DATED this 23rd day of May, 2006.

Joe Bleymaier, Administrator
Division of Veterans Services
320 Collins Rd.
Boise, Idaho 83702
Phone: (208) 334-3513
Fax: (208) 334-2627

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

002. WRITTEN INTERPRETATIONS.

~~*There are no written interpretations that pertain to the interpretation of the rules of this chapter.*~~
In accordance with Section 67-5201(19)(b)(iv), Idaho Code, this agency may have written statements that pertain to the interpretation of the rules of this chapter, or to compliance with the rules of this chapter. Any such documents are available for public inspection and copying at cost at the Idaho Division of Veterans Services office. ~~(5-3-03)()~~

SENATE JUDICIARY & RULES COMMITTEE

DIVISION OF VETERANS SERVICES
The Idaho State Veterans Cemetery

Docket No. 21-0104-0601
PENDING RULE

(BREAK IN CONTINUITY OF SECTIONS)

010. DEFINITIONS.

01. Administrator. The administrator of the Idaho Division of Veterans Services or his designee. (5-3-03)

02. Applicant. The individual requesting interment, disinterment or reinterment of a qualified person. (5-3-03)

03. Armed Forces Member. A member or former member of the armed forces of the United States, the reserve component of the armed forces of the United States, the reserve officers training corps of the United States, or the armed forces of an ally of the United States who is eligible for burial in national cemeteries pursuant to 38 C.F.R. Section 1.620 and 38 U.S.C. Section 2402. (5-3-03)

04. Cemetery. The Idaho State Veterans Cemetery authorized pursuant to Section 65-108, Idaho Code. (5-3-03)

05. Committal Service. A gathering of one (1) or more individuals prior to interment or reinterment. (5-3-03)

06. Cremains. Cremated human remains. (5-3-03)

07. Designated Interpretive Trail. A public recreational trail designated by a sign or marker. ()

078. Disinterment. The removal of human remains from their place of interment. (5-3-03)

089. Division. The Idaho Division of Veterans Services. (5-3-03)

0910. Interment. The disposition of human remains by burial or the placement of cremains in a grave plot or in any location designated by the administrator for use as a permanent location of cremains. (5-3-03)

101. Qualified Person. A person who satisfies the requirements for eligibility for interment in national cemeteries found at 38 C.F.R. Section 1.620 and 38 U.S.C. Section 2402. (5-3-03)

112. Reinterment. The interment of previously interred human remains. (5-3-03)

123. Unremarried Spouse. An individual who is the surviving spouse of a deceased armed forces member and who has not remarried. (5-3-03)

SENATE JUDICIARY & RULES COMMITTEE

DIVISION OF VETERANS SERVICES
The Idaho State Veterans Cemetery

Docket No. 21-0104-0601
PENDING RULE

134. USDVA. The United States Department of Veterans Affairs. (5-3-03)

(BREAK IN CONTINUITY OF SECTIONS)

050. PUBLIC BEHAVIOR IN THE CEMETERY.

01. Littering. Littering is prohibited in the cemetery. (5-3-03)

02. Preservation of Cemetery Property. The destruction, injury, defacement, removal or disturbance in or of any building, sign, equipment, monument, statute, marker or any other structures, or of any tree, flower, or other vegetation, or of any artifact or any other property in the cemetery is prohibited unless authorized by the administrator. (5-3-03)

03. Recreation and Entertainment. The cemetery shall not be used for any form of sports, entertainment or recreation, other than use limited solely to designated interpretive trails. The administrator may limit access to designated interpretive trails to one (1) or more routes designated by a marker or sign. The cemetery shall not be used as a picnic ground. ~~(5-3-03)~~(____)

04. Public Ceremonies and Gatherings. Except for committal services, any individual or group organizing a ceremony or gathering in the cemetery must first obtain the prior written approval of the administrator. The cemetery shall not be used for partisan activities. Parties receiving authority to hold a ceremony or public gathering shall comply with all restrictions placed upon the ceremony or public gathering by the administrator. ~~(5-3-03)~~(____)

05. Animals. Animals shall be allowed in the cemetery only on designated interpretive trails and marked designated interpretive trail access areas. Dogs shall be on a leash while ~~in the cemetery~~ on designated interpretive trails and marked designated interpretive trail access areas. Animal owners shall observe posted requirements for gaining access to designated interpretive trails, the use and behavior of animals, and the disposal of animal waste. ~~(5-3-03)~~(____)

06. Motor Vehicles. Except as authorized by the administrator: (5-3-03)

a. Motor vehicles shall remain on authorized, established roadways or parking areas; (5-3-03)

b. Motor vehicles are prohibited on interpretive trails; (5-3-03)

c. Motor vehicle drivers shall observe posted traffic, directional, parking, and speed signs and all applicable state and local laws governing traffic on public roads; and (5-3-03)

d. Overnight parking is prohibited in the cemetery. (5-3-03)

07. Alcohol. No alcoholic beverages shall be consumed in the cemetery. (5-3-03)

SENATE JUDICIARY & RULES COMMITTEE

***DIVISION OF VETERANS SERVICES
The Idaho State Veterans Cemetery***

***Docket No. 21-0104-0601
PENDING RULE***

08. Photographs. No commercial video or commercial still photographs shall be taken in the cemetery without the prior written approval of the administrator. (5-3-03)

SENATE JUDICIARY & RULES COMMITTEE

IDAPA 21 - DIVISION OF VETERANS SERVICES

21.01.05 - RULES GOVERNING MEDICAL TRANSPORTATION PAYMENT FOR WHEELCHAIR CONFINED VETERANS

DOCKET NO. 21-0105-0601

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2007 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 65-202, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the September 6, 2006 Idaho Administrative Bulletin, Vol. 06-9, pages 112 through 113.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:
N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact David Brasuell, Administrator, (208) 334-3513.

DATED this 28th day of September 2006.

THIS NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 65-202, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 20, 2006.

SENATE JUDICIARY & RULES COMMITTEE

DIVISION OF VETERANS SERVICES**Docket No. 21-0105-0601****Medical Transportation Payment/Wheelchair Confined Veterans PENDING RULE**

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Since its inception in 2003, the transportation program has not been used by a significant number of wheelchair confined veterans because few providers have participated. The current program requires that transportation providers enter into an agreement with the Division of Veterans Services prior to the veteran using the provider and makes the provider responsible for seeking reimbursement for the transportation from the Division of Veterans Services. The proposed program would allow the veteran to receive a voucher for transportation and to use any private provider for the transportation. The veteran would be responsible for submitting the costs of transportation for reimbursement by the Division of Veterans Services. All other safeguards built into the program will remain. This rulemaking will revise the rules to encourage use of the program by providing direct reimbursement to wheelchair confined veterans who use a private provider for transportation to medical appointments.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because of the non-controversial nature of the rule revisions.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule contact Joe Bleymaier, Administrator, (208) 334-3513.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 27, 2006.

DATED this 19th day of July, 2006.

Joe Bleymaier, Administrator
Division of Veterans Services
320 Collins Rd.
Boise, Idaho 83702
Phone: (208) 334-3513
Fax: (208) 334-2627

SENATE JUDICIARY & RULES COMMITTEE

DIVISION OF VETERANS SERVICES

Docket No. 21-0105-0601

Medical Transportation Payment/Wheelchair Confined Veterans PENDING RULE

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

010. DEFINITIONS.

01. Bona Fide Resident. A person who maintains a principal or primary home or place of abode in the state of Idaho coupled with the present intent to remain at that home or abode and return to it after any period of absence. Bona fide resident status is determined as of the date of application for transportation voucher payment. (5-3-03)

02. Commercial Carrier. A for profit or not-for-profit ground transportation provider that operates a motor vehicle accommodating wheelchairs ~~and that has entered into a written agreement with the Division to provide transportation pursuant to these rules.~~ A commercial carrier shall not include an ambulance service or an operator of a private or personal vehicle. (5-3-03)(____)

03. Covered Transportation. Transportation meeting the requirements of Subsection 012. (5-3-03)

04. Division. The Idaho Division of Veterans Services. (5-3-03)

05. Eligible Veteran. An individual meeting the requirements of Subsection 011. (5-3-03)

06. Medical Appointment. A regularly scheduled medical appointment with individuals licensed, registered or certified by national certification standards in their respective discipline, or otherwise qualified within the state in which the service is provided. A medical appointment does not include treatment for a medical condition, the onset of which is sudden, that manifests itself by symptoms of sufficient severity, including severe pain, that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in placing the person's health in serious jeopardy, or in causing serious impairments of bodily function or serious dysfunction of any bodily organ or part. (5-3-03)

07. Veteran. Shall have the meaning as defined in Section 65-203(1), Idaho Code. (5-3-03)

08. Veterans Service Officer. An employee of the Division's Office of Veterans Advocacy or an employee of a county, as provided in Section 65-601, Idaho Code, appointed to give aid and assistance to veterans. (5-3-03)

09. Wheelchair Confined. A person who is confined to a wheelchair due to a physical or mental inability to walk independently. (5-3-03)

(BREAK IN CONTINUITY OF SECTIONS)

SENATE JUDICIARY & RULES COMMITTEE

DIVISION OF VETERANS SERVICES

Docket No. 21-0105-0601

Medical Transportation Payment/Wheelchair Confined Veterans PENDING RULE

014. PAYMENT.

01. Payment Amount. Payment pursuant to these rules shall not exceed one hundred dollars (\$100) for transportation to and from a medical appointment or fifty dollars (\$50) for transportation to or from a medical appointment. (5-3-03)

02. Payment Voucher. Upon approval of an application, the Division will provide a voucher to the eligible veteran. ~~The Division will make payment for covered transportation provided to an eligible veteran directly to the commercial carrier as set forth in the agreement between the commercial carrier and the Division.~~ (5-3-03)(____)

03. Payment. The Division will reimburse the veteran for covered transportation upon submission by the veteran of a voucher and a corresponding receipt from a commercial carrier. With prior approval, the Division will make payment for covered transportation provided to an eligible veteran directly to the commercial carrier upon submission by the commercial carrier of the voucher and a corresponding receipt from the commercial carrier. A corresponding receipt shall mean a receipt containing information confirming the charges are for the covered transportation for which the Division issued the voucher. (____)

SENATE JUDICIARY & RULES COMMITTEE

IDAPA 21 - DIVISION OF VETERANS SERVICES

21.01.06 - RULES FOR THE ENFORCEMENT OF THE VETERAN'S PREFERENCE IN PUBLIC EMPLOYMENT

DOCKET NO. 21-0106-0601 (NEW CHAPTER)

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2007 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 65-506, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the June 7, 2006 Idaho Administrative Bulletin, Vol. 06-6, pages 109 through 115.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:
N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Joe Bleymaier, Administrator, (208) 334-3513.

DATED this 29th day of June 2006.

THIS NOTICE WAS PUBLISHED WITH THE TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is July 1, 2006.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section 65-506, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an

SENATE JUDICIARY & RULES COMMITTEE

DIVISION OF VETERANS SERVICES**Docket No. 21-0106-0601****Enforcement of the Veteran's Preference in Public Employment** **PENDING RULE**

agency, not later than June 21, 2006.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing to the agency address below.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

These rules provide a mechanism for enforcing a veteran's preference in public employment.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226(2)(a), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

These rules are being promulgated in compliance with amendments made to the governing law by the 2006 Idaho Legislature.

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: N/A

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because of the necessity to comply with governing law.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Joe Bleymaier, Administrator, (208) 334-3513.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before June 28, 2005.

DATED this 3rd day of May, 2006.

Joe Bleymaier, Administrator
Division of Veterans Services
320 Collins Rd.
Boise ID 83702
Phone: (208) 334-3513
Facsimile: (208) 334-2627

SENATE JUDICIARY & RULES COMMITTEE

DIVISION OF VETERANS SERVICES

Docket No. 21-0106-0601

Enforcement of the Veteran's Preference in Public Employment PENDING RULE

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

***IDAPA 21
TITLE 01
CHAPTER 06***

***21.01.06 - RULES FOR THE ENFORCEMENT OF THE VETERAN'S
PREFERENCE IN PUBLIC EMPLOYMENT***

000. LEGAL AUTHORITY.

Section 65-506, Idaho Code, authorizes and directs the Idaho Division of Veterans Services to issue rules for the enforcement of Title 65, Chapter 5, Idaho Code. (7-1-06)T

001. TITLE AND SCOPE.

01. Title. These rules shall be cited as IDAPA 21.01.06, "Rules for the Enforcement of the Veteran's Preference in Public Employment". (7-1-06)T

02. Scope. These rules contain procedures public employers may implement for an internal process which must be exhausted prior to a petitioner gaining access to the courts to contest a public employer's application of the veteran's preference in public employment. (7-1-06)T

002. WRITTEN INTERPRETATIONS.

In accordance with Section 67-5201(b)(iv), Idaho Code, this agency may have written statements that pertain to the interpretation of the rules of this chapter, or to compliance with the rules of this chapter. Any such documents are available for public inspection and copying at cost at the Idaho Division of Veterans Services office. (7-1-06)T

003. ADMINISTRATIVE APPEALS.

This chapter does not provide for appeal of the procedures public employers may implement under Title 65, Chapter 5, Idaho Code. (7-1-06)T

004. INCORPORATION BY REFERENCE.

No documents have been incorporated by reference into these rules. (7-1-06)T

**005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS --
TELEPHONE NUMBER -- INTERNET WEBSITE.**

01. Address. The mailing address and the street address of the office of the Division of Veterans Services is 320 Collins Road, Boise, Idaho 83702. (7-1-06)T

02. Office Hours. The office is open from 8 a.m. to 5 p.m., except Saturday, Sunday, and legal holidays. (7-1-06)T

SENATE JUDICIARY & RULES COMMITTEE

DIVISION OF VETERANS SERVICES

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Enforcement of the Veteran's Preference in Public Employment **PENDING RULE**

03. Telephone. The telephone number of the Division is (208) 334-3513. (7-1-06)T

04. FAX. The Division's facsimile number is (208) 334-2627. (7-1-06)T

05. Internet Website. The Division's internet website is www.veterans.idaho.gov. (7-1-06)T

006. PUBLIC RECORDS ACT COMPLIANCE.

The records associated with this chapter are subject to the provisions of the Idaho Public Records Act, Title 9, Chapter 1, Idaho Code. (7-1-06)T

007. -- 009. (RESERVED).

010. DEFINITIONS.

01. Definitions Generally. Except where supplemented by the definitions in Section 010, the definitions in Section 65-502, Idaho Code, shall apply to terms used in these rules. (7-1-06)T

02. Petitioner. Petitioner shall mean a person who alleges the denial of a preference. (7-1-06)T

03. Preference. Preference shall mean a right or benefit granted to the petitioner under Title 65, Chapter 5, Idaho Code. (7-1-06)T

04. Presiding Officer. The individual or individuals, as more particularly described in Subsection 103.01 of these rules, appointed by the public employer executive to preside at a hearing. (7-1-06)T

05. Public Employer Executive. Public employer executive shall mean the individual or body of individuals in whom the ultimate legal authority of the public employer is vested by any provision of law. (7-1-06)T

011. -- 099. (RESERVED).

100. HEARING REQUESTS.

01. Written Requests. A petitioner must make a hearing request in writing to the public employer executive. A written hearing request must be hand delivered to the public employer executive or deposited, postage paid and properly addressed, in the United States Mail. Hearing requests must contain the following information:

(7-1-06)T

a. The petitioner's full name and complete mailing address. (7-1-06)T

b. A request for either a telephonic or a face-to-face hearing. The petitioner shall provide the telephone number where a telephonic hearing may be conducted. (7-1-06)T

SENATE JUDICIARY & RULES COMMITTEE

DIVISION OF VETERANS SERVICES

Docket No. 21-0106-0601

Enforcement of the Veteran's Preference in Public Employment PENDING RULE

- c. The position for which the petitioner applied for appointment. (7-1-06)T
- d. A brief statement of the petitioner's basis of eligibility for a preference, as set forth in Section 65-503, Idaho Code. (7-1-06)T
- e. A brief statement of the issues petitioner proposes to raise at the hearing. (7-1-06)T
- f. Any dates or times that the petitioner or the petitioner's attorney cannot be available for a hearing. (7-1-06)T

02. Timely Requests. The public employer executive must receive hearing requests by 5 p.m. at the offices of the public employer executive no later than thirty-five (35) days following the date of the alleged denial of a preference. The date of the alleged denial of a preference for the purpose of calculation of time under Subsection 100.02 shall be the date of issuance of a notice to the petitioner that the petitioner was not awarded a position or, if no notice is issued, the date petitioner becomes aware that he was not awarded a position. (7-1-06)T

03. Request Withdrawal. A petitioner may withdraw a hearing request at any time. (7-1-06)T

04. Disposition of Case Without a Hearing. Any hearing request may be resolved without a hearing on the merits of the request by stipulation, settlement, motion to dismiss, summary judgment, default, or for lack of jurisdiction. The public employer executive must dismiss an appeal that is not timely filed for lack of jurisdiction. (7-1-06)T

101. HEARING NOTICES.

01. Notification of Hearing. Upon timely receipt of a hearing request, the public employer executive shall notify petitioners of the time and date of the hearing and the presiding officer at the hearing. Hearing notices must be issued not less than seven (7) days prior to the hearing. The hearing notice shall specify whether the hearing will be conducted by telephone or face-to-face. If the hearing is to be face-to-face, the hearing notice shall specify the location of the hearing. The hearing notice shall stipulate an address for the filing of documents with the presiding officer. (7-1-06)T

02. Location of Hearings. Hearings may be conducted by telephone or face-to-face in the discretion of the public employer executive, except that where the petitioner or another participant in the hearing would be denied the opportunity to participate in the hearing if held by telephone, the hearing shall be face-to-face. Face-to-face hearings shall be held in the city in which the position the petitioner applied for appointment is located, unless otherwise agreed upon by the parties. (7-1-06)T

03. Hearing Date. The public employer executive shall conduct hearings within thirty-five (35) days of receipt of the hearing request. The public employer executive may extend the hearing date for an additional thirty-five (35) days for good cause shown by the public employer executive or the petitioner. (7-1-06)T

SENATE JUDICIARY & RULES COMMITTEE

DIVISION OF VETERANS SERVICES

Docket No. 21-0106-0601

Enforcement of the Veteran's Preference in Public Employment

PENDING RULE

102. PREHEARING PROCEDURE

01. Discovery. Prehearing discovery is limited to obtaining the names of witnesses and copies of documents the opposing party intends to offer as exhibits. The presiding officer at the hearing may order production of the names of witnesses and copies of documents after receiving a written request for an order of production. The presiding officer shall issue an order of production as needed to ensure the orderly conduct of the hearing. (7-1-06)T

02. Subpoenas. If the public employer executive holds statutory subpoena power applicable to hearings under these rules, the presiding officer may issue subpoenas for witnesses or documents. (7-1-06)T

03. Briefing. The presiding officer may require briefs to be filed by the parties and establish a reasonable briefing schedule. (7-1-06)T

04. Filing of Documents. All documents requested by a party to be entered as exhibits shall be filed with the presiding officer in person or by first class mail with a copy provided to the opposing party. Service by mail is complete when the document, properly addressed and stamped, is deposited in the United States mail. A certificate showing delivery to all parties must accompany all documents when they are filed with the presiding officer. (7-1-06)T

103. PROCEDURE AT HEARING.

01. Presiding Officer at Hearing. In the discretion of the public employer executive, the public employer executive, one (1) or more members of the public employer executive, or one (1) or more hearing officers shall be the presiding officer at the hearing. (7-1-06)T

02. Representation. The petitioner may represent himself. Either party may be represented by legal counsel, at the party's own expense. Persons not authorized to practice law in the state of Idaho shall not represent parties. (7-1-06)T

03. Evidence. The presiding officer may exclude evidence that is irrelevant, immaterial, incompetent, unduly repetitious, excludable on constitutional or statutory grounds, or protected by legal privilege. Hearsay evidence may be admitted if it is relevant to the grant or denial of the preference and is sufficiently reliable that prudent persons would commonly rely on it in the conduct of their affairs or if the hearsay evidence corroborates competent evidence. All other evidence may be admitted if it is of a type commonly relied upon by prudent persons in the conduct of their affairs. Documentary evidence may be received in the form of copies or excerpts if the original is not readily available. Notice may be taken of judicially cognizable facts or general, technical, or scientific facts by the presiding officer on its own motion or on motion of a party. (7-1-06)T

04. Hearing Record. The presiding officer shall make a record of the hearing. The record shall consist of: an audio recording of the hearing, except in instances where the presiding officer requires a different method of recording the hearing; and, exhibits and other items of evidence presented at the hearing. A party may request a copy of the hearing record, at the party's own expense. (7-1-06)T

SENATE JUDICIARY & RULES COMMITTEE

DIVISION OF VETERANS SERVICES

Docket No. 21-0106-0601

Enforcement of the Veteran's Preference in Public Employment

PENDING RULE

104. FINAL ORDER.

01. Order of the Presiding Officer. The presiding officer must issue a written order not more than thirty-five (35) days from the date of the hearing. The order of the presiding officer must include: (7-1-06)T

- a.** Specific findings on all major facts at issue; (7-1-06)T
- b.** A reasoned statement in support of the decision; (7-1-06)T
- c.** All other findings and recommendations of the presiding officer; (7-1-06)T
- d.** A preliminary decision finding that a preference was or was not applied by the public employer as required by Title 65, Chapter 5, Idaho Code; and (7-1-06)T
- e.** The procedure and time limits for filing a request for a review by the public employer executive, if available. (7-1-06)T

02. Review by the Public Employer Executive.

a. If the presiding officer at the hearing was a hearing officer or less than a quorum of the public employer executive, either party may request a review by a quorum of the public employer executive not later than seven (7) days from the date the presiding officer mailed the order of the presiding officer. The request must identify all legal and factual bases of disagreement with the order of the presiding officer. (7-1-06)T

b. Upon receipt of the request for a review hearing, the public employer executive may: (7-1-06)T

i. Issue a written order affirming the decision of the public employer executive without a hearing; or, (7-1-06)T

ii. Issue a notice for a review hearing complying with the provisions of Section 101. (7-1-06)T

c. If the public employer executive issues a notice for a review hearing, the notice will establish a schedule for briefing, if allowed, and specify whether oral argument will be heard on the review. (7-1-06)T

d. The public employer executive shall conduct review hearings within thirty-five (35) days of receipt of the review request. (7-1-06)T

e. The public employer executive shall issue a written order not more than thirty-five (35) days from the date of the review hearing. The order shall contain: (7-1-06)T

i. Specific findings on all major facts at issue; (7-1-06)T

ii. A reasoned statement in support of the decision; (7-1-06)T

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iii. All other findings and recommendations of the public employer executive; and (7-1-06)T

iv. A finding that a preference was or was not applied by the public employer as required by Title 65, Chapter 5, Idaho Code. (7-1-06)T

03. Order of the Public Employer Executive. (7-1-06)T

a. The following shall be orders of the public employer executive: (7-1-06)T

i. The order of the presiding officer if the presiding officer is an individual serving as the public employer executive or a quorum of the public employer executive. The date of exhaustion of the appeal process shall be the date such order of the presiding officer is issued. (7-1-06)T

ii. The order of the presiding officer if the presiding officer is a hearing officer or less than a quorum of the public employer executive and the public employer executive fails to hold a review hearing after a timely request or fails to issue an order within the required time after holding a review hearing. The date of exhaustion of the appeal process shall be the last day the public employer executive was required by these rules to hold a hearing or to issue an order. (7-1-06)T

iii. The written order of the public employer executive following a review hearing. The date of exhaustion of the appeal process shall be the date such order of the public employer executive is issued. (7-1-06)T

iv. The initial hiring determination of the public employer executive if the public employer executive fails to hold a hearing as required by these rules or if the presiding officer fails to issue an order after holding a hearing. The date of exhaustion of the appeal process shall be the last day the public employer executive was required by these rules to hold a hearing or to issue an order. (7-1-06)T

b. Orders of the public employer executive shall set forth the procedure and time limits for filing an appeal to the district court under Section 65-506, Idaho Code. (7-1-06)T

105. -- 200. (RESERVED).

201. ALTERNATIVE PROCESSES.

A public employer may publish an alternative internal review process for challenges to the application of Title 65, Chapter 5, Idaho Code, if such process: (7-1-06)T

01. Appeal Deadline. Establishes a deadline of thirty-five (35) days for the filing of appeals alleging the denial of a preference. (7-1-06)T

02. Notice of Process. Includes written notice to applicants for employment of the existence of the process and how to obtain a copy of the process. Publication of the process in a rule or ordinance of the public employer shall be written notice to applicants for employment.

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03. Opportunity to Be Heard. Provides an opportunity in the internal review for the petitioner to submit argument, evidence, and witnesses and to cross-examine the public employer executive's witnesses. (7-1-06)T

04. Record of Process. Produces a record of the internal review process that is available to the district court. (7-1-06)T

05. Written Final Order. Requires a written final order of the public employer containing: (7-1-06)T

a. Specific findings on all major facts at issue; (7-1-06)T

b. A reasoned statement in support of the decision; and (7-1-06)T

c. A finding that a preference was or was not applied by the public employer as required by Title 65, Chapter 5, Idaho Code. (7-1-06)T

06. Notice of Appeal Rights. Includes written notice to petitioners at the conclusion of the internal review of the procedure and time limits for filing an appeal to the district court under Section 65-506, Idaho Code. (7-1-06)T

202. -- 300. (RESERVED).

301. APPEAL TO DISTRICT COURT.

Petitioners must exhaust an appeal process implemented under these rules prior to appeal to district court. If a public employer implements an appeal process under these rules, petitioner may appeal the order of the public employer executive to a district court of the state of Idaho within one hundred eighty (180) days of the exhaustion of the appeal process. If a public employer has not implemented an appeal process under these rules, the petitioner may file an action directly in a district court of the state of Idaho within thirty-five (35) days of the alleged denial of a preference. (7-1-06)T

302. TRANSFER OF HEARING RECORD TO DISTRICT COURT.

The public employer shall submit a complete copy of the hearing record to a district court of the state of Idaho following the filing of an appeal and payment by the appealing party of the costs of duplicating and preparing the hearing record for submission, including labor costs. The opposing party may obtain a copy of the transcript at a cost not exceeding the cost of duplicating the hearing record submitted to the district court. (7-1-06)T

303. -- 999. (RESERVED).